THE HISTORY OF SUFFRAGE IN VIRGINIA

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History is past Politics and Politics are present History.—*Freeman*

THE HISTORY OF SUFFRAGE IN VIRGINIA

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PREFACE

This monograph and my previous paper on "Representation in Virginia," published in the Fourteenth Series of the Johns Hopkins University Studies in Historical and Political Science, form chapters of a Constitutional History of Virginia, which is now in preparation. At the present moment great interest centers in the governmental history of the State, as Virginia is upon the eve of adopting a new Constitution. In view of this fact, it is to be hoped that this paper, by tracing out the history of suffrage in Virginia, may be of service in the discussion of the all-important question, the elective franchise. It is generally conceded that, though many subjects of great political interest are now before the people of the State, none is more important than the suffrage question. The Constitutional Convention was called primarily for the purpose of making changes in the electorate.

Thanks are due to Professors Herbert B. Adams and J. M. Vincent, of the Johns Hopkins University, and to Mr. W. W. Scott, of the Virginia State Library, for valuable suggestions in the preparation of this essay.

J. A. C. CHANDLER.

Richmond, Va., May 1, 1901.

THE HISTORY OF SUFFRAGE IN VIRGINIA

CHAPTER I.

SUFFRAGE BEFORE 1830.

In 1619 the people of Virginia were, for the first time, granted the rights of suffrage. At that time came Governor Yeardley who, as an officer of the London Company, established in Virginia a representative form of government[1] and called the first Legislative Assembly that ever met on American soil. In the writs which ordered the election of "Burgesses," he ordained that they should be elected by the "inhabitants" of the colony.[2]

Two years later Sir Francis Wyatt, who came as the successor of Yeardley, brought to the colony the famous "Ordinance and Constitution" of July 24, 1621. By this constitution the privileges which had been granted by Yeardley were affirmed by the London Company, and again it was stated that the Burgesses were to be chosen by the "inhabitants."[3]

At first glance one would think that the Virginia Colony had universal suffrage, that both men and women exercised the privilege and duty of voting; but, if we read between the lines the election law of 1646 (a law enacted with reference to the mode of conducting elections, and in no way intended to define an elector's qualifications), it is evident that the right of suffrage was granted only to freemen, except that "indented" or "covenant" servants were to be

[1] Chandler's Representation in Virginia (J. H. U. Studies, 14th Ser.), p. 12 et seq.

[2] Smith's Hist. of Va., vol. ii, p. 39. [3] Hening, vol. i, p. 112.

recognized as freemen.[4] In 1655, the right of suffrage was, for the first time, abridged, being confined to "housekeepers, whether freeholders, leaseholders or otherwise tenants," but the term "housekeepers" was to be so construed that only one in a family was to have the right to vote.[5]

At the next session of the General Assembly (1656), the right of suffrage was again extended to all freemen, because the Burgesses considered it "something hard and unagreeable to reason that any person shall pay equal taxes and yet have no votes in elections."[6] By the revised laws of 1658 the franchise was still allowed to all freemen.[7] In 1670 the right of suffrage was restricted. The following is a part of the act:

"Whereas the usuald way of chuseing burgesses by the votes of all persons who, haveing served their tyme, are ffreemen of this country, who haveing little interest in the country, doe oftener make tumults at the elections to the disturbance of his majesties peace, than by their discretions in their votes provide for the conservasion thereof, by making choyce of persons fitly qualified for the discharge of soe greate a trust, and, whereas the lawes of England[8] grant a voyce in such elections only to such as by their estates real or personall have interest enough to tye them to the endeavor of the publique good: It is hereby enacted that none but freeholders and housekeepers, who only are answerable to the publique for the levies, shall hereafter have a voyce in the election of any burgesses."[9]

In 1676 occurred Bacon's Rebellion, a rebellion for the

[4] Hening, vol. i, p. 334.
[5] Ibid., vol. i, p. 403.
[6] Ibid., vol. i, p. 412.
[7] Ibid., vol. i, p. 475.
[8] In the time of Henry VI the franchise in England was limited to those who had estates of a rental value of 40 shillings a year. In the commonwealth period it was extended to all persons owning 200 pounds' worth of property, whether real or personal. On the restoration of the Stuarts the old freehold qualification was again reenacted. Feilden's Const. History of England, pp. 132-133.
[9] Hening, vol. ii, p. 280.

rights of freemen, and one of the first laws passed by the General Assembly which was summoned by Virginia's first rebel, was the repeal of the act of 1670 and the extension of suffrage once more to all freemen.[10]

Free manhood suffrage was not in accord with the narrow ideas of Charles II; so, in 1676, he wrote to Sir William Berkeley: "You shall take care that the members of the Assembly be elected only by freeholders as being more agreeable to the custom of England, to which you are, as nigh as conveniently you can, to conform yourself."[11] The following year, through the influence of Berkeley and the King, a law was enacted that freeholders only were to be electors. This was the first law which cut off housekeepers who were not freeholders.[12]

In 1699, the General Assembly reaffirmed the statute of 1676, but in addition enacted that "no woman, sole or covert, infants under the age of twenty-one years, or recusant convict, being freeholders" should enjoy the franchise.[13] The wording of this act shows that the parties mentioned as unqualified to vote had never had the right, and that the disfranchising clause was simply the embodiment of the then existing customary law.

In 1705, the General Assembly adopted what might be termed a revised code of laws. In this code a freeholder is defined as a person who has "an estate real for his own life, or the life of another, or any estate of any great dignity."[14]

Under this statute a freehold was merely nominal; and, as a result, many fraudulent "leases of small and inconsiderable parcels of land upon feigned considerations" were often made by the candidates for the House of Burgesses

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[10] Hening, vol. ii, p. 356. [11] Ibid., vol. ii, p. 425.

[12] Ibid., vol. ii, p. 425. This is not the view expressed by Hening in the preface to his first volume. According to Hening the first statute to restrict suffrage to freeholders only was the act of 1670. That act certainly granted the franchise to housekeepers.

[13] Hening, vol. iii, p. 172. [14] Ibid., vol. iii, p. 240.

or by their agents,[15] so as to control an election. Because of such fraud practiced in the elections, a desire arose for an electorate composed of only *bona fide* freeholders, possessing a sufficiently large landed estate to make them truly interested in all public questions. The cheapness[16] of land made it easy to acquire a small freehold; and, for this reason, among the higher and ruling class, there was a feeling for a much higher property qualification. If we can rely upon Governor Spotswood's statement, in 1712, the Virginia Assembly was composed of extremely worthless representatives. He claimed that this condition was due to a defect in the Virginia constitution which allowed every man who could acquire as much as one-half of an acre of land the right to vote.[17] Even a free negro if he was a freeholder was a voter.[18] The statement is also made that the Virginians favored the extension of suffrage to all freemen. The English Board of Trade, however, instructed Governor Spotswood and the Council in Virginia to propose a law to increase the qualifications of electors. The Board of Trade further said, if the colony refused to assent, that Spotswood should try to enforce his instructions, and that the Board would see that something was done in England to force the colonists to obedience.[19] The opposition of the Governor and the Board of Trade to a liberal suffrage, together with the discovery of an intended negro insurrection,[20] undoubtedly influenced the Virginia Assembly to pass an act in 1723, by which negroes, mulattoes and Indians, though they were freeholders, were deprived of the privilege of voting.[21] And finally, in 1736, an act was passed

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[15] Ibid., vol. iv, p. 475.

[16] The right to a fifty-acre freehold could be secured for five shillings. (Ballagh: White Servitude in Va., p. 86.)

[17] Sainsbury MSS., Package iii (1706-1714), under date of Oct. 15, 1712, and Spotswood's Letter, vol. ii, pp. 1-2.

[18] Ibid., Package i (1606-1740), p. 158.

[19] Ibid., Package iii (1706-1714), under April 23, 1713, and July 20, 1713.

[20] Ibid., Dec. 20, 1722.

[21] Hening, vol. iv, p. 133.

by which a freehold was made to consist of one hundred acres of uncultivated land without a house, or twenty-five acres of improved land with a house on it. A house and lot in a town constituted a freehold. When a piece of land was held by several joint tenants, not more than one vote could be cast in respect of that land, "unless the quantity be sufficient to allot to each joint tenant, or tenant in common, one hundred acres at least, if the same be uninhabited, or twenty-five acres with a house and plantation thereon."[32] No person was allowed to vote because of his freehold, unless he had been in possession of it for at least twelve months before the issuing of the writ for the election.[33] As had been enacted in 1723, a negro, mulatto, Indian, feme sole or covert, minor, or recusant convict could not vote, though qualified with a freehold.

In 1762 and again in 1769 the General Assembly enacted that the franchise should be extended to a man who owned fifty acres (instead of one hundred) of uninhabited and uncultivated land, but to both of these acts the English sovereign refused approval.[34] The other features of the law of 1736 were left unchanged. These two acts, though failing to become laws in Virginia, show that the people of the colony were in favor of allowing the owners of small freeholds a voice in the government.

Virginia always held closely to English institutions; partly because the people were lovers of the institutions of the mother-country, and partly because the kings of England, or the governors of the colony acting under royal

[32] Ibid., vol. iv, pp. 475, 476.

[33] Moreover, the freeholder had to vote in the county where his freehold was located, but this was never strictly enforced. Often a man voted in the county which was most convenient. This lasted till 1830. A freeholder could also vote in as many counties as he had freeholds. This was not prohibited till 1851. (Nation, April 27, 1893.)

[34] Hening, vol. vii, p. 518; vol. viii, p. 305. Every law passed in Virginia had to be sent to England for the King's approval before it became binding on the colony. The Board of Trade usually acted for the King.

instructions, instituted on Virginia soil, even though the people might not sanction them, such practices as had existed in England. Even as in England one system of franchise existed in the counties and another in the boroughs, so in Virginia the city of Williamsburg and the borough of Norfolk had, under their charters, special privileges as to suffrage. In 1722 the city of Williamsburg received from George I. a charter by which the right of suffrage was granted: (1) to any man who owned a house and lot in the town; (2) to any person who had any "visible" estate of fifty pounds current money, and (3) to any person who, after having served an apprenticeship of five years in the city, had become a housekeeper and inhabitant of the town. In 1742, the General Assembly passed an act explanatory of this charter. It declared: (1) that in case of joint ownership of a house and lot, only one vote could be cast because of that freehold, and that no vote should be cast unless the joint owners could agree; (2) that a person who owned any property of fifty pounds value had to be a resident of the town for at least twelve months before the election, and (3) that a person who had served an apprenticeship in the town had to be an actual resident and housekeeper of the town at the time of the election.[35] Of course, no residential qualifications were required of the freeholders of the city, as every man in Virginia could vote in every place where he had a freehold.

In 1736, a charter was granted to the borough of Norfolk. The same privileges of suffrage which Williamsburg enjoyed were allowed to the citizens of Norfolk.[36] In all other boroughs in Virginia only freeholders were to enjoy suffrage for the election of members to the General Assembly.[37]

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[35] Hening, vol. v, p. 204. [36] Ibid., vol. vi, p. 261.

[37] Ibid., vol. iii, p. 236. Jamestown, for instance, had the privilege of electing a burgess, but only freeholders living on the island could vote. After Williamsburg became the capital, there were only about ten freeholders at Jamestown.

The English system of allowing Parliamentary representation to the universities was applied to the College of William and Mary. By its charter of 1693 one burgess was allowed that institution.[28] The right to elect this burgess was given to the president and professors of the college without reference to any qualification of property or residence. Here was an educational qualification on a small scale.

In colonial days aristocracy prevailed. As we have just seen, suffrage was in all the rural districts confined to the freeholders, so that only a small per cent. of the population could vote; but aristocratic principles are to be seen in still another way so widely different from our modern days. Now every petty official is elected by popular vote, but in colonial days no man voted except for burgesses, and the election of these was often infrequent. Sometimes there were annual elections, and sometimes the General Assembly, just as the English Parliament, was prorogued from year to year, so that a new election might not take place in seven, eight or ten years. How little power the people had in their government when compared with the present conditions! Even in towns the people sometimes had no voice in the municipal government. In Williamsburg and Norfolk, however, the qualified voters had the right to elect their municipal officers. There were many more towns in Virginia at the opening of the Revolutionary War, but they were not incorporated, and their affairs were in the hands of Trustees, who were named in the acts by which the towns were established; and, therefore, the people in these small towns had no voice in the town affairs, except that, in some instances, vacancies among the Trustees were filled by an election, but more frequently the Trustees themselves had the power to fill the vacancies.[29]

[28] Charter of William and Mary, Morrison's College of William and Mary, p. 19.

[29] There were two kinds of towns in Virginia: (1) The incorporated towns, which had a mayor, council, etc., elected directly or

Thus matters stood in 1776 when Virginia threw off the British yoke. In the convention of 1776, which drew up Virginia's first constitution, George Mason, the author of the famous "Declaration of Rights," was the only man who advocated a change of suffrage. He proposed to extend the franchise to all persons twenty-four years old who had an estate of inheritance of land of 1000 pounds value, and to all having leases in which there was an unexpired term of at least seven years. He also proposed (which reminds one of the Roman constitution) to put a premium on the father of a growing family, and to grant to every housekeeper, "the father of three children in the country," all the privileges of suffrage.[20] At this time Jefferson was a member of the Continental Congress at Philadelphia, but, on hearing that Virginia was about to draft a constitution, he prepared a plan of government which was sent immediately to Williamsburg. It arrived too late to be used, as the convention had already agreed upon the constitution. But no preamble having been adopted, the preamble to Jefferson's plan was immediately affixed to the new constitution, and adopted along with it on the 29th day of June, 1776, just five days before the Continental Congress adopted Jefferson's Declaration of Independence.[21]

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indirectly by the qualified voters; and (2) the unincorporated towns, where the affairs were managed by Trustees. A house or lot in towns of either class entitled one to vote in the elections in the county in which the town was located.

[20] Madison's Works, vol. i, p. 24. Mason proposed that the voters should elect the lower house of the General Assembly, and should also elect a body of electors who should choose the senators. A similar plan was afterwards advocated by Jefferson, and it is interesting to note that this plan of an electoral college which Virginians were wise enough to reject, afterwards became the basis of our present system of electing the Presidents of the United States.

[21] It is very interesting to compare the Preamble of the Constitution of 1776 with the Declaration of Independence, and to see how Jefferson embodied in the Declaration of Independence some of the same thoughts (often in the same words) which are to be found in the Preamble to the Constitution of Virginia.

With reference to suffrage, Jefferson's proposed plan of government favored the extension of the electoral franchise to all free white men over twenty-one years of age who had paid "scot and lot" for two years preceding the election at which they offered to vote.[32] The constitution as adopted, however, simply declared that suffrage should remain unchanged;[33] *i. e.*, it remained as it had been established by the law of 1736 for the counties and towns, and by the respective charters of the city of Williamsburg and the borough of Norfolk.

In 1776, there was no active party in favor of the extension of suffrage, and no one, except Jefferson and Mason, seems to have advocated any change whatever. Had Jefferson been a member of the Virginia Convention, the constitution might have been different. In 1785, the General Assembly extended the right to vote to all who had as much as fifty acres (instead of one hundred) of uncultivated land, but in other respects made no change.[34] In other words, the Assembly adopted a measure similar to the acts of 1762 and 1769 which had been rejected by the King. Suffrage remained, as fixed by the statute of 1785, until the adoption of a new constitution in 1830.

This, in brief, is the history of suffrage from 1619 to 1830, so far as concerns the elections of members to the General Assembly, and, after 1788, members of Congress and Presidential Electors.

The city of Williamsburg and the borough of Norfolk were peculiar anomalies. As has been seen, both of these

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[32] Ford's Writings of Jefferson, vol. ii, p. 14.

[33] Va. Constitution, Hening, vol. i, p. 52. Under the constitution the State remained practically as aristocratic in its government as it had been under the government of England. The electors still voted simply for members of the General Assembly, but the old Council as a legislative body was superseded by the Senate, and the members of this newly established branch were elected by popular vote. No voice was given to the people in their local government. This was left in the hands of the Governor, who was elected by the General Assembly.

[34] Hening, vol. xii, p. 120.

places had special privileges of suffrage which, however, had reference to elections held within their charter limits, yet a freeholder of Norfolk who had voted in the election in the city could, also, because of his freehold in the city, vote in the elections in Norfolk county, and a freeholder of the city of Williamsburg had the same privileges with reference to the county of James City.

Up to 1851 every citizen had the right to vote in every county in which he had a freehold, but a citizen was never allowed to have two votes for the same freehold, except in the cases of Norfolk and Williamsburg. This anomaly existed because Williamsburg and Norfolk were granted by their charters the privilege of sending one delegate each to the General Assembly at the time when the suffrage laws allowed freeholders in a town the privilege of voting in the county in which that town was located. This was not altogether agreeable to the people of Virginia. An act passed in 1787 stated that, if at any time thereafter any town might receive the privilege of electing a delegate to the General Assembly, the citizens of the said town were to be allowed no vote in the county in which the town was located.[85] Thus, a freeholder in a town would be entitled to only one vote, but the law expressly stated that Williamsburg and the borough of Norfolk were not to be affected. In 1788, when the General Assembly assigned one delegate to the city of Richmond, it declared that the freeholders of Richmond could not have a voice in the elections in Henrico county.[86] Not until after the adoption of the Constitution of 1829-1830 and the passage of the election law of 1831, were the freeholders of Williamsburg and the borough of Norfolk deprived of their votes in the counties.[87]

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[85] Hening, vol. xii, p. 643. [86] Ibid., vol. xii, p. 722.

[87] Code (1849), p. 38. Williamsburg was deprived of its representation, and its citizens, with those of York and James City counties, had one delegate. Norfolk city retained its delegate, but no voter could exercise the franchise except in the city, hence could not vote for the delegate from Norfolk county. Of course, those who

Suffrage in Virginia in colonial days was indeed peculiar. As has been shown, in the counties it was perfectly uniform, while in Williamsburg and Norfolk there was an electoral qualification different from the county qualification. These qualifications applied to the elections of members of the General Assembly and to Federal elections. This lack of uniformity was due to the fact that the charters of Williamsburg and of the borough of Norfolk were granted in the reigns of George I and George II—a time when it was an English principle to grant more liberal rights to the inhabitants of a town than of a county. But, remarkable to say, after the rejection of the British government, the General Assembly, when it established towns, often provided for special qualifications which were to be required in those elections which referred to the affairs of the towns.

In 1779, when Alexandria was incorporated, all freeholders or housekeepers who had resided in the town for twelve months were allowed to vote in municipal elections. Charters with like provisions were granted to Winchester, to Fredericksburg and to Staunton.[38] In 1782, Richmond was chartered. The franchise in municipal elections was conferred upon every white citizen who had resided in the city for three months and owned property, real or personal, to the value of one hundred pounds. Non-resident freeholders of the city were also given franchise in city elections.[39] The charter of Petersburg[40] was, as far as suffrage was concerned, like that of Richmond. In 1788, when Richmond was allowed a member in the House of Dele-

voted in Norfolk or Williamsburg because of any "visible" estate of the value of 50 pounds (according to the act of 1818, $166.66), or those who voted because they had served an apprenticeship of five years and were housekeepers, had never had the right to vote in the county elections. In other words, a premium had been put on a freehold voter in Norfolk and Williamsburg, just as is the case in the present constitution of Belgium.

[38] Hening, vol. x, pp. 172, 440; (New Series) vol. ii, p. 335.

[39] Hening, vol. xi, p. 45. [40] Ibid., vol. xi, p. 383.

gates, only freeholders were allowed to vote for the representative, who had to be a freeholder.[41] Towns known as "unincorporated towns" had trustees named in the acts of establishment, and vacancies among such trustees were filled, sometimes by vote of the freeholders and housekeepers, and sometimes by the vote of the freeholders only.[42] Some towns were established without any mention of the suffrage qualification for town elections. By an act of 1819 it was provided that in this case freeholders only, just as in the general elections, were to be given the franchise.[43]

Thus we see that Alexandria, Fredericksburg, Winchester and Staunton had one system, that Richmond and Petersburg had another, and that the "unincorporated towns" had still another. Other instances might be given, but those already cited are sufficient to show the confused state of suffrage. Nearly every town had a distinct qualification for its municipal electors, while those who were municipal electors were not entitled to vote in the general elections, unless freeholders, except in Williamsburg and Norfolk.

Before 1830 the franchise granted for town elections was more liberal than for the general elections. By the constitution of 1830, the qualifications for the general elections having been somewhat reduced, the differences were not so glaring, except in Richmond and Petersburg, where the franchise for general elections was more liberal than for municipal elections. In 1850, when suffrage was extended to all male whites over twenty-one years of age, the restrictions on suffrage in the municipal elections of Richmond were beyond all reason; so, in 1852, the Richmond charter was amended whereby suffrage became uniform in the city, and all who voted in the general elections also voted for the city officials.[44]

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[41] Hening, vol. xii, p. 722.
[42] Ibid., vol. v, p. 119; vol. x, p. 236; Code (1819), vol. ii, p. 319.
[43] Code (1819), vol. ii, p. 319. [44] Charter of 1852, §8.

In spite of the different changes and the peculiar anomalies of the electoral franchise, freehold suffrage, on the whole, prevailed in Virginia up to 1830. The system restricted very greatly the franchise, but yet there is good evidence that it was more liberal and more democratic than it had been in New England during the colonial period.[45] Aliens easily became citizens,[46] and freeholds could be obtained by a small outlay.

The usual voting population numbered about six per cent. of the whites;[47] but in some counties of the Commonwealth, especially in the western part of the State where the freeholds were small and a large per cent. of the inhabitants were landowners, the voting population was often as great as nine per cent. of the whites.[48] Under the present system of free manhood suffrage, from fifteen to twenty per cent. of the population can vote.[49] Though suffrage in Virginia was more liberal than in New England in the colonial days; yet, when compared with our modern democratic system,

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[45] Jameson: Nation, April 27, 1893; Lyon G. Tyler: William and Mary Quarterly.

[46] In early days aliens became citizens of Virginia simply by taking oaths of allegiance and of supremacy, and after 1705 by taking such oath as was used by the English Parliament. In 1783, it was enacted that an alien became a citizen as soon as he took the oath of allegiance to the commonwealth. If qualified with a freehold he could vote, but to be elected to an office he must have been a resident for at least two years and have intermarried with a Virginia family, or have property worth more than 100 pounds. Hening, vol. ii, pp. 289, 308, 339, 400, 447, 464; vol. iii, p. 434; vol. v, p. 58; vol. xi, p. 323; vol. xii, p. 267.

[47] Jameson: Nation, April 27, 1893. In the presidential election of 1800 the contest was hot between Jefferson and Adams. The total vote was 27,335, and the white population was 514,280, which shows that about 5¼ per cent. of the white population voted. (Enquirer, Nov. 21, 1800; Census, 1800.)

[48] See election returns in Enquirer, May 11, 1813, and compare with the Census of 1810.

[49] Documents of Convention, 1867-68, Document 16, p. 122.

In 1892, the vote cast in Virginia was 292,146, and the census of 1890 shows a population of 1,665,980 (Dispatch, Nov. 23, 1892, and Census of 1890).

it was restricted to an aristocracy. Only about one in four, or at most one in three, of the free white men of Virginia was a landowner; therefore, as many as three-fourths or two-thirds of the freemen of the State were disfranchised. It does not seem that the Virginians of 1776 understood the meaning of their famous Declaration of Rights which declared that "all men are by nature equally free and independent," and they undoubtedly believed that no man could give "evidence of permanent common interest with, and attachment to, the community" unless he owned real estate. The economic conditions then existing in the State explain this belief.

CHAPTER II.

STRUGGLE FOR THE EXTENSION OF SUFFRAGE.

In colonial days freemen who were deprived of the suffrage were constantly clamoring for the privilege. This statement is proven by the reports of the contested elections going as far back as 1744. In nearly every case the illegal votes which were thrown out in the settlement of the contest had been cast by non-freeholders. In some counties the people practically made laws to regulate their own suffrage. In such counties where the pressure was sufficiently great, the sheriffs were accustomed to allow the franchise to non-freeholders, provided no objection was raised by the candidates.[1] Surely this statement proves that there was a strong democratic tendency in the colony of Virginia in favor of the extension of suffrage. Nathaniel Bacon, Virginia's first rebel, was also Virginia's first champion of the rights of freemen. One century later, we find Virginia's great democrat, Thomas Jefferson, playing the same rôle. In 1783, appeared the book of "Notes on Virginia," in which Mr. Jefferson argued that freehold suffrage was entirely contrary to the principles of the free government. He asserted that the majority of the people who paid the taxes and fought for the State had no voice in its government, that the roll of freeholders who could vote did not contain half of the freemen assessed for taxes, or enrolled

[1] See contested election cases of John Tabb vs. Wm. Wager, Elizabeth City (Journal, 1776, April 8). In this election, 10 non-freeholders had been allowed to vote. In the case of Blagrove vs. Pettus, Lunenburg county, out of a vote of 372, forty-two freemen had voted (Journal, March 12, 1772).

in the militia of the State. Jefferson pleaded for a constitutional convention which should establish in Virginia a democratic form of government. He prepared a draft of a constitution in which the suffrage clause proposed that all freemen who had been residents in Virginia one year, who possessed a small amount of property, real or personal, or who were enrolled in the militia, should have the right of suffrage.[2] Acting on Mr. Jefferson's suggestion, in 1784, James Madison urged the General Assembly to provide for the calling of a constitutional convention, and, among other matters of importance, he mentioned that the bad state of suffrage should be rectified.[3] This movement failed and we hear little more of suffrage until the beginning of the 19th century. In 1802, William Munford,[4] a prominent State Senator, addressed a circular letter to his constituents advocating the extension of suffrage to all white freemen. The "Gazette" was a strong Federalist paper which was opposed to anything which savored of Jeffersonianism. It claimed that Munford's proposition was nothing more than a move on the part of the Republican party, headed by Jefferson, to make sure of retaining the reins of government in their own hands. In other words, that here was a conspiracy to extend suffrage to all freemen with the hope that they would always express their gratitude by supporting the party which had given them the privilege.[5] The theories of Mr. Munford were regarded as "visionary." However, through the efforts of Mr. Mun-

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[2] Notes on Va. (ed. 1801), p. 408. This was his second draft of a constitution.

[3] Madison's Works, vol. i, p. 83.

[4] This was William Munford, of Mecklenburg county. He was the translator of Homer, and for a long time clerk of the House of Delegates. William Munford was a prominent lawyer, a noted orator, and at one time a member of the Executive Council of Virginia. His circular letter was addressed to the citizens of Mecklenburg, Lunenburg, Brunswick and Greenesville (Enquirer, Feb. 1, 1806; Gazette, Feb. 23, 1803; Recorder, March 6, 1802).

[5] Gazette, Feb. 23, and July 20, 1803.

ford, a bill was introduced in the General Assembly of 1802-3, providing that a constitutional convention should meet, one object of which would be the extension of suffrage to all freemen. This measure met with little support and was defeated by a large majority. A letter published at this time in the "Alexandria Advertiser" shows the spirit of those opposed to a wider franchise. In speaking of the extension of suffrage, it said: "Such has been the folly and weakness of the people of Maryland that they have carried the right of suffrage so far, that their very wheelbarrow men may be carried to vote by an *habeas corpus*, and afterwards returned to their daily employment imposed on them for some felonious act. Great God! is it possible that a State can exist long under such a government? We have to bless ourselves in Virginia that the right of suffrage has saved us in some degree from the calamity of democracy, alias mobocracy. I am well informed that the Legislature of Maryland would disgrace any country; the members of their Assembly, Senate and Council are neither men of education nor common sense, scarce one capable of draughting a law. What has been the consequence of such characters getting into the Assembly? Why, they have expelled worth and talent, and the people of Maryland have submitted to men elected by free negroes, wheelbarrow men, etc. Can it be expected that men of worth and talents would mix or keep company with such a set of men, elected by such a crew?"[6]

In quoting this article the "Gazette" warned the people of Virginia to profit by the conditions in Maryland and to beware of the visionary ideas of Mr. Munford. The desire for reform in Virginia continued to grow, and for several years we find the newspapers discussing questions of reform; among them, the extension of suffrage and the reapportionment of representation were the most prominent.[7]

[6] Quoted in Va. Gazette, July 20, 1803. This is a much overdrawn account of the state of affairs in Maryland.

[7] Enquirer, Dec. 29, 1804, has an excellent article signed "C."

In 1806, when the convention question was again brought up in the Legislature, the extension of suffrage was warmly advocated. It was argued that it was a shame to the Commonwealth of Virginia that nine-tenths of the freemen were deprived of suffrage.[8] One member went so far as to declare that men thus deprived of their rights were "as much enslaved as beings who inhabit the Turkish Empire. If they enjoy more personal liberty it is because their masters are more indulgent and not that they are less absolute."[9] It was asserted that the Bill of Rights was violated when men who owned slaves, horses and other personal property, subject to taxation, were refused the privilege of suffrage, though they were as much interested in the community as those owning real estate. Many of them were patriots who had fought and bled for their country, and yet they were not interested in their country because they did not own land. Still the Legislature refused to act, and public sentiment had to grow.

Universal suffrage became a subject for public debate and for all newspaper discussion. The young men of the country were its advocates, so Madison tells us. In judging from the reports of William and Mary College, at that time Virginia's great school of politics, universal suffrage was a favorite theme for the young orators of the country.[10] This appeal for liberty and democracy on the part of the students of William and Mary reminds one of the outbreak in 1848 at the universities of Germany, an outbreak which fostered and cherished the idea of German liberty and nationality.

In 1810 came two appeals to the Legislature. The little

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[8] This was too high, as only two-thirds of the freemen were deprived of suffrage.

[9] Enquirer, Jan. 28, 1806.

[10] At the commencement of 1808, universal suffrage was advocated by one of the graduates, William Greenhill (Enquirer, July 15, 1808), and again at the commencement of 1812, the same principle was urged (Enquirer, July 14, 1812).

town of Waterford in Loudoun county desired to elect its officers by the vote of all the housekeepers in the town instead of by the vote of freeholders, as was required.[11] A petition was also presented to the Legislature from Accomac county, asking that steps be taken at once to extend suffrage and to procure other needed reforms. This was the day of Napoleonic despotism in France, and a kind of conservative spirit prevailed in all parts of the English and American world. James Monroe, who had been a representative of the American Government in France at the opening of the French Revolution, was at this time a member of the Virginia Assembly. He had seen the evils of universal suffrage in France, and so strenuously opposed any action on the part of the Legislature that the petitions were rejected by a large majority.[12]

The inequality of representation was the burning question at that time, but the extension of suffrage was always warmly advocated. Again, in 1814, another bill for constitutional reform was rejected.[13] The equalization of representation and the extension of suffrage now became the cry of reformers throughout the State. In the summer of 1816 conventions were held at Winchester and at Staunton to discuss questions of reform. The meeting at Staunton was attended by some of the ablest men in the State. Thirty-six counties were represented, twenty-four of which were west of the Blue Ridge and twelve to the east of that ridge.

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[11] Jour. of House of Delegates, Dec. 20, 1810. In this connection attention is called to the special privileges enjoyed in Williamsburg and Norfolk. Supra, p. 19.

[12] Va. Convention (1829-30), p. 150. Monroe afterwards changed his mind, and said that it might be expected that universal suffrage would not be a success in France, where the people had been oppressed for ages, but that in Virginia, where the people were accustomed to representative government, no evil could come of universal suffrage.

[13] Va. Convention (1829-30), p. 421. Bill provided for (1) extension of suffrage, (2), reapportionment of representation, and (3) reduction of number of members in the House of Delegates.

At this time a great fight was being waged between Western and Eastern Virginia for the reapportionment of representation in the General Assembly, due to the fact that in proportion to the white population Eastern Virginia had twice as much power in the State government as it should have. The Staunton Convention was therefore called primarily to discuss representation. But as a rule Western Virginians and those in the East who believed in equalizing representation, also believed in free manhood suffrage; so the Staunton Convention declared in favor of (1) apportioning the members of the General Assembly on the basis of the free white population and (2) for the extension of suffrage to all persons giving sufficient evidence of a "permanent common interest with, and attachment to, the community." The memorial prepared by this Staunton meeting was referred to the General Assembly, but, again, the reforms asked for were denied. It is well to remember, however, that in February, 1817, a bill to call a constitutional convention to equalize representation and to extend suffrage passed the House of Delegates but was rejected by the Senate.[14]

For about seven years no decided effort was made to call a constitutional convention, but the newspapers in nearly every issue during this period had an article advocating reform of some kind in the government. Frequently the suffrage was the subject of discussion.[15] In some parts of

[14] Jour. of House of Delegates (1816-17), p. 180; Enquirer, Jan. 14 and 25, 1817. The bill followed the wording of the memorial, and passed the House of Delegates by the vote of 79 to 73. A majority of those voting for it were from the western part of the State, but some of the eastern members supported it from the desire to change the suffrage, which was as bad as the feudal system which during the Dark Ages "confirmed all the powers to the barons." So the Virginia government granted all the power to freeholders, and was an oligarchy.

[15] The Enquirer, of Dec. 4, 1824, has a fine article on the question. The argument was that the whole government of Virginia was in the hands of a minority, and that people were often taxed without being allowed any voice in the government. The article proposed

the country the desire for its extension was so great that candidates for the General Assembly, by a common agreement, allowed freemen to vote in the elections, and the sheriff recorded their votes unless challenged by the candidates.[16] In 1824, Jefferson, an old man in retirement at Monticello, gave his views upon the subject of the suffrage. He said: "The basis of our constitution is in opposition to the principle of equal political rights, refusing to all but freeholders any participation in the right of self-government." According to Jefferson, the exclusion of the majority of the freemen from voting was arbitrary and "a usurpation of the minority over the majority."[17] At the session of the General Assembly of 1824-5 a convention bill was again introduced. It passed the House of Delegates by a vote of 105 to 98 but was rejected in the Senate by 13 to 11.[18] As in all previous convention bills, one of the reforms desired was the extension of suffrage.

The action of the General Assembly aroused the people in favor of reform to still more vigorous action. A great meeting was called at Staunton in July, 1825. One hundred delegates appeared, some of the most distinguished men of the State. They were encouraged by nearly all of the leading papers of the State, which said that reform in the government was absolutely necessary. They discussed the inequity of representation, and the injustice of freehold suffrage, and petitioned the General Assembly to call a constitutional convention at once to redress these griev-

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to allow every white man to vote for members of the House of Delegates, while only freeholders could vote for senators.

[16] Enquirer, Feb. 14, 1822.

[17] Jefferson's Letter, Enquirer, April 27, 1824.

[18] Enquirer, Feb. 10, 1825. The editor in commenting on the rejection said: "Things cannot always remain as they are. The people will correct them. They will call in yet louder tones for a convention. The present constitution is defective and requires amendment. Such is the language of justice and prudence." The action of the Virginia Senate reminds one of the English House of Lords in its opposition to the Reform Bill of 1832.

ances. Still again the General Assembly declined to call a convention.[19]

For three more years the fight went on with the same result; but, finally, in January, 1828, a bill was passed by the General Assembly to submit to voters of Virginia the question of a convention to reform the constitution.[20] For over twenty-five years the struggle for reform had been waged. During this time the State had gradually divided itself into two sections having in many respects conflicting interests. There was the slave-holding planter in Eastern Virginia and the sturdy mountaineer in Western Virginia. Under the constitution of 1776 Eastern Virginia rightly and justly had the control of the administration; but, as the western section increased in population, it received no additional powers in the government. For these additional rights it clamored unceasingly for twenty-five years. The East, however, opposed any change. The western principles of government called for representation based on free manhood suffrage, while the eastern principles demanded a representative system based on man and property combined, and a freehold suffrage. A constitutional convention could not be called unless a General Assembly approved of it, and, since the eastern section of the State had a large majority in the Legislature, it is plain why it took so long to produce a sentiment strong enough to make the eastern members yield to the cry for reform. Some never did, while others consented to call a convention in order to secure many needed reforms other than the change of representation or the extension of suffrage. Still, when the convention question was submitted to the vote of the people, more than half of the votes in the East declared against the convention, but the almost unanimous vote of the West, together with a small vote of the East, carried the day for the reform convention.

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[19] Va. Convention, 1829-30, p. 82.
[20] Acts of General Assembly, 1827-28, p. 18.

CHAPTER III.

THE DISCUSSION OVER SUFFRAGE IN THE CONVENTION OF 1829-30.

The Convention assembled in the Capitol at Richmond, October 5, 1829. Its ninety-six members were among the most prominent men of the State, and many of them had a national reputation. It is probable that there has never been in the United States a State constitutional convention in which there was so much talent. There were two Ex-Presidents, Madison and Monroe; the Chief Justice of the United States, Marshall; several who were or had been United States Senators, and many who during their lives were members of Congress, or held other posts of honor. This convention has always been regarded as one of the greatest assemblies of intellect ever held on Virginia soil.[1]

Next to representation, suffrage was the most important subject of discussion. The Legislative Committee, of which Mr. Madison was chairman, reported on the question of suffrage.[2] While the reapportionment of representation was for the most part a grievance, for the redress of which the West only clamored, an extension of suffrage, though most strongly advocated by the West, was likewise desired by many in the eastern part of the State. There was a strong sentiment in the city of Richmond for its extension, and, at the very commencement of the convention, Chief-Justice Marshall presented a "memorial from a numerous and respectable body of citizens, the non-freehold-

[1] For a fuller account of this convention see Chandler's "Representation in Virginia," J. H. U. Studies, 14th Series.

[2] Va. Convention (1829-30), pp. 22, 39, 40.

ers of the City of Richmond."[3] This memorial is a very long one and sets forth an argument why they should be allowed the rights of suffrage. They claimed that they were passed by as "aliens or slaves, as if they were destitute of interest or unworthy of a voice in measures involving their future political destiny; whilst the freeholders, sole possessors under the existing Constitution of the elective franchise, have, upon the strength of that possession alone, asserted and maintained in themselves the exclusive power of new-modelling the fundamental laws of the State; in other words, have seized upon the sovereign authority." They appealed to the Bill of Rights, and cited Jefferson as having been a champion of their cause. They denied the assertion that freehold suffrage was a fair criterion by which to judge of merit, but, on the other hand, asserted that it shut out from the affairs of the government some of the most intelligent and meritorious men, whose vocations required no ownership of property. With indignation they had heard that they were too ignorant and vicious to vote; yet in the time of war they had always been called upon to defend the country, and at that time the militia were composed of a large per cent. of non-freeholders. Mr. Mercer presented a memorial to the same effect from a "highly respectable body of citizens in Fairfax county,"[4] and Mr. Anderson another from the non-freeholders of Shenandoah county.[5] These were referred to the Legislative Committee, on the motion of Chief-Justice Marshall, who said that "however the gentlemen might differ in opinion on the question discussed in the memorials, he was sure they must all feel that the subject was one of the deepest interest and well entitled to the most serious attention of this body."[6] Other memorials were also presented to the convention asking for an extension of the right of suffrage.[7]

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[3] Va. Convention (1829-30), pp. 26, 27.
[4] Va. Convention (1829-30), p. 31.
[5] Ibid., p. 32. [6] Ibid., p. 32. [7] Ibid., p. 32.

The Legislative Committee brought in a lengthy report on suffrage which advised that all who then enjoyed the right to vote should continue to exercise that privilege, and that suffrage should be extended to those who possessed freeholds of the value of $——; to those who owned vested estates in fee, in remainder, or in reversion worth $——; to leaseholders paying an annual rate of $——; and to taxpaying housekeepers.[8] The blanks were to be filled by the convention. As soon as the report was taken up for discussion, it became evident that it was not satisfactory to any of the members. Yet the members were so divided in sentiment that it was also seen that no better plan was likely to be adopted. Many resolutions were offered bearing on suffrage. General Robert Taylor of Norfolk presented resolutions in favor of uniform suffrage throughout the State.[9] His idea was to abolish any differences which might exist between the usual regulations governing suffrage and the special charter privileges granted to many of the towns. At the same time he desired that a definite regulation should be adopted which would apply throughout the State. Mr. Fitzhugh of Fairfax desired to simplify the regulations governing suffrage by allowing all freeholders, or householders, having any assessed property (real or personal) of some specified value, the elective franchise.[10] Mr. Alexander Campbell, President of Bethany College, proposed to extend the right of suffrage to "all free white males of twenty-three years of age, born within the Commonwealth and resident therein,"[11] while any one not born in the State could acquire the right of suffrage by

[8] Ibid., pp. 39-40.

[9] Va. Convention (1829-30), p. 39. Gen. Taylor was not in accord with his constituents, and afterwards resigned his seat in the convention for that reason.

[10] Va. Convention (1829-30), p. 42.

[11] Ibid., p. 43. The term "free white" is to be distinguished from white population, because there were many whites in the State at that time bound for a term of years, and they were not regarded as "free."

a declaration in court of his intention to become a resident of the State. Another proposition was that suffrage be granted to every free white man of the Commonwealth who had resided therein for one year previous to the election, provided he had paid all levies or taxes imposed according to law. A poll-tax of twenty-five cents per annum was to be levied on all white men, and the revenue thus acquired, with an equal amount from the property tax, was to be set aside for "the education of the youth of Virginia."[12]

The most heated discussion of the convention was on representation, but the second most interesting was on suffrage. The men from the western part of the State were anxious for free manhood suffrage, while those from the eastern part were more conservative and cared for very little change in the electoral qualifications. James Monroe declared that he was willing in the extension of suffrage to go as far as the most liberal could desire.[13] Benjamin Watkins Leigh, on the other hand, declared against extension of suffrage, claiming that it would grant too much liberty, and the result would be the liberty of Virginia expiring with excess. In this connection he made use of the following eloquent language: "It has pleased Heaven to ordain that man shall enjoy no good without alloy. Its greatest bounties are not blessings, unless the enjoyment of them be tempered with moderation. Liberty is only a *means;* the end is *happiness.* It is indeed the wine of life; but like other wines, it must be used with temperance in order to be used with advantage; taken to excess, it first intoxicates, then maddens, and at last destroys."[14] John Randolph of Roanoke declared that it was an outrage to the freeholders even to extend suffrage to the housekeepers and to free men over twenty-one years of age. Addressing the President of the Convention, he said: "Sir, I demand as a

[12] Va. Convention (1829-30), p. 44.

[13] Va. Convention (1829-30), p. 150. Monroe explained that he had changed his views since 1810, when he had so earnestly opposed the extension of suffrage.

[14] Ibid., p. 173.

freeholder, in behalf of freeholders on what plea you put them and them only under the ban of this Convention. . . . I will never consent to deprive freeholders of their rights, . . . I will never consent to be an agent in this."[18] The western people quoted Jefferson as a great advocate of manhood suffrage and said that the government of Virginia was not entitled to the name of a republic. Jefferson had said: "We find no republicanism in our Constitution, but merely in the spirit of our people; but the spirit of our people would oblige even a despot to govern us republicanly. Owing to this spirit and to nothing in the form of our Constitution, all things have gone well." The western people thought that these conditions ought to be removed and that the people ought to be trusted to govern themselves, but the sage of Monticello had little weight with the Eastern Virginians, especially with those of the type of John Randolph. They practically said, "Let things stay as they are. We are getting on well. Let good enough alone." Randolph said: "Such is the wisdom of our existing form of government that no proposition can be brought forward with a view to making an inroad that can demand a respectable majority. The lust of innovation has been the death of all republics. All men of sense ought to guard and warn their neighbors against it." Randolph proposed at one time that the Convention should adjourn *sine die* and give up all intention of changing the constitution of 1776,[19] as it was the best the world had ever seen. The way in which Jefferson's views were regarded by the East is seen by another extract from Randolph. In replying to a western member, he said: "We are not to be struck down by the authority of Mr. Jefferson. Sir, if there be any point on which the authority of Mr. Jefferson might be considered as valid, it is in the mechanism of a plough. He once mathematically and geometrically demonstrated the form of a mould board which might present

[18] Va. Convention (1829-30), p. 346.
[19] Ibid., pp. 557, 571, 572, 716.

the least resistance. His mould board was sent to Paris. It was exhibited to all the visitors in the garden of plants and was declared *una voce*—the best mould board that had ever been devised. Sometime after, an adversary brought into Virginia the Carey plough, but it was such an awkward looking thing that it would not sell. At length some one tried it, and, though its mould board was not the one of least resistance, it beat Mr. Jefferson's plough as much as *common sense* will always beat *theory* and *reveries*." This was indeed the feeling of the Eastern Virginian. He believed that democracy was a theory, and that only men of property should be given the franchise. At this time there were in Virginia some 100,000 free white citizens paying taxes to the State, of whom about 40,000 were freeholders and 60,000 were men who owned personal property.[17] The western members made a desperate effort to have suffrage extended to all taxpayers, but the proposition was rejected by the eastern members. The East had sixty members in the Convention, and the West, thirty-six; and, when the vote was taken to extend suffrage even to taxpayers, only a few of the eastern men failed to oppose it. This measure was rejected by a vote of fifty-three to thirty-seven.[18] Had this proposition been carried, 43,000 white men over twenty-one years of age would still have been disfranchised, because they paid no taxes on any personal property. So we see that the western scheme which came nearest to passing would have enfranchised only 100,000 out of 143,000 male whites over twenty-one years of age. At this time Virginia was the only State in the Union out of twenty-four that held exclusively to the freehold suffrage.[19] The advocates of universal suffrage stood no chance with men who believed that landed property was the basis of the State and of wealth, and that, if the wealth of a State is jeopardized, the State will be thrown into confusion. The

[17] Va. Convention, p. 355. The number of free white males over 21 years of age was 143,000.

[18] Va. Convention (1829-30), pp. 350, 383.

[19] Ibid., p. 356.

property of the State must be protected and this can be done only by property qualifications being required of every voter. A proposition was even offered to disfranchise some of the freeholders who already could vote because of fifty acres of unimproved land.[20] It was claimed that many of these small freeholds in West Virginia, of fifty acres of unimproved land were worth, in the mountainous districts, only a few cents and that a specified valuation should be fixed upon the freehold which would qualify a man to vote. The sentiment of the convention, however, was not in favor of disqualifying any who could already vote. The eastern men who controlled the convention practically said, those who could vote ought to continue to exercise the privilege, and that suffrage ought likewise to be extended to all persons having small freeholds with specified value, whether they were two, three, four or five acres, and to leaseholders and taxpaying housekeepers, but there was such a diversity of opinion as to what valuation should be required, that a deal of wrangling occurred before a plan could be agreed upon.[21] The following botch of a plan was finally adopted and embodied in the constitution:[22]

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[20] Ibid., pp. 349, 346.

[21] Va. Convention (1829-30). Mr. Wilson, of Monongalia, proposed the extension of suffrage to all taxpayers (p. 350). Benjamin Watkins Leigh did not desire to extend suffrage beyond leaseholders, and desired to keep the franchise from the hands of the housekeepers. This was defeated by a vote of 51 to 37 (pp. 393, 432). There were in Virginia at this time about 30,000 men who paid a revenue tax, but were not freeholders. Doddridge proposed that the suffrage be extended to these, but the motion was rejected by a vote of 48 to 44 (p. 441). This close vote shows that there was a pretty strong desire to give a voice in the government to all who paid a revenue tax. They were the western men reinforced by about a dozen of the eastern members. The ultra eastern men tried to prevent the extension of suffrage to leaseholders, but lost by a vote of 68 to 28 (p. 638) They also tried to exclude from the electorate housekeepers who were assessed for the revenues of the State, and had actually paid taxes. This motion was also lost, the vote standing 56 to 40 (p. 641).

[22] Va. Convention (1829-30), p. 900. By this constitutional provision we find the following qualifications for voters: (1) A 25-acre freehold of improved land acquired before 1830; (2) a 50-acre free-

"Every white male citizen of the Commonwealth, resident therein, aged twenty-one years and upwards, being qualified to exercise the Right of Suffrage according to the former Constitution and laws; and every such citizen, being possessed, or whose tenant for years, at will or at sufferance, is possessed, of an estate of freehold in land of the value of twenty-five dollars, and so assessed to be if any assessment thereof be required by law; and every such citizen, being possessed, as tenant in common, joint tenant or parcener, of an interest in or share of land, and having an estate of freehold therein, such interest or share being of the value of twenty-five dollars, and so assessed to be if any assessment thereof be required by law; and every such citizen being entitled to a reversion or vested remainder in fee, expectant on an estate for life or lives, in land of the value of fifty dollars, and so assessed to be if any assessment be required by law (each and every such citizen, unless his title shall have come to him by descent, devise, marriage or marriage settlement, having been so possessed or entitled for six months); and every such citizen, who shall own and be himself in actual occupation of a leasehold estate, with the evidence of title recorded two months before he shall offer to vote, of a term originally not less than five years, of the annual value or rent of twenty dollars; and every such citizen, who for twelve months next preceding has been a housekeeper and head of a family within his county, city, town, borough or election district where he may offer to vote, and shall have been assessed with a part of the revenue of the Commonwealth within the preceding year, and actually paid the same—and no other persons—shall be qualified to vote for members of the General Assembly in the county, city, town

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hold of unimproved land acquired before 1830; (3) a $25 freehold; (4) a $25 joint tenantship; (5) a $50 reversion; (6) a five-year leasehold of annual rental value of $20; (7) a tax-paying housekeeper, being the head of a family.

or borough, respectively, wherein such land shall lie, or such housekeeper and head of a family shall live. And in case of two or more tenants in common, joint tenants or parceners, in possession, reversion or remainder, having interest in land, the value whereof shall be insufficient to entitle them all to vote, they shall together have as many votes as the value of the land shall entitle them to: and the Legislature shall by law provide the mode in which their vote or votes shall in such case be given: *Provided, nevertheless,* That the right of Suffrage shall not be exercised by any person of unsound mind, or who shall be a pauper, or a non-commissioned officer, soldier, seaman or marine, in the service of the United States, or by any person convicted of any infamous offence."

With such a clause regulating suffrage well might Randolph have claimed that the convention was not capable of amending the Constitution of 1776 and that their work would not stand for more than twenty years[22] (a true prophecy). The work of this convention is a clear demonstration of the fact that it is not always the greatest statesmen and the most distinguished men who are capable of forming general principles upon which government should be based. As a rule the most successful statesman is the one who performs specific acts. Of such eminent statesmen this convention was composed. Jefferson was a statesman of a different kind. In dealing with a specific case he often failed, but in forming general principles he was the greatest master America has ever produced. Though the convention had agreed upon constitutional regulations for suffrage which the greatest constitutional lawyers, Chief-Justice Marshall not excepted, could not interpret, something had really been accomplished towards extending suffrage. The granting of suffrage to leaseholders, and housekeepers who had paid taxes, was some advance from the freehold system towards a democracy. Just to what extent

[22] Va. Convention (1829-30), p. 790.

the electorate had been increased it is difficult to determine. In 1828 the vote on the convention question was 38,780.[24] All these were, of course, freeholders. The new constitution by a special provision was submitted for its ratification to all who would be qualified to vote under the new constitution and the vote cast was only 41,618.[25] This was probably not a full vote, but on the basis of these two elections we are justified in saying that suffrage had not been extended very liberally; and that, while under the old constitution two-thirds of the free white men over twenty-one years of age could not vote,[26] that now at best not more than half of the freemen could exercise that privilege.

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[24] Va. Convention (1829-30), p. 379.

[25] Ibid., p. 903.

[26] Ibid., p. 379. The total number of freemen over 21 years of age was 143,000, from which about 10,000 ought to be deducted as paupers, and, if we suppose that 20,000 voters failed to exercise the right, we are still justified in our conclusion.

CHAPTER IV.

STEPS TO FREE MANHOOD SUFFRAGE.

The convention of 1829-30 had been a failure in so far as reform was concerned. Virginia's great men had shown their incompetency to frame a constitution which would be lasting. The inequality and inequity of representation had been only partially removed, and no constitutional basis for future reapportionment had been established. Suffrage had been extended to but half of the freemen. Many other reforms, such as we now think are the very essentials of a democracy, had likewise been rejected, such as voting by ballot, election of governors by the people and the election of all local officers by the people of the district. Eastern Virginia members believed in a deep-dyed aristocracy, and Eastern Virginia ruled the State.

But to return to suffrage, the interpretation of the clause regulating suffrage as embodied in the new constitution was very doubtful. In the General Assembly of 1831-32, there was quite a number of contested election cases, and in trying to determine the legal and illegal votes, the House found in many cases that it was almost impossible to decide. Often the Committee on Elections reported that certain votes were illegal, and the House would reverse the decision, and *vice versa*. The clause on suffrage in the constitution was so badly stated, that the House appointed a special committee with authority to prepare an explanatory bill.[1] The problem was too knotty for the committee, and

[1] Journal of House of Delegates (1831-32), p. 58, and Document No. 13. For instance, the right of suffrage was granted a man owning an interest in any estate, provided his interest was assessed at $25, if the assessment was required by law. Such a case was found, but no assessment had been made. It was finally decided that such a vote was illegal (Journal of 1838, p. 55).

after much debate it was decided to leave the matter as it was, thus necessitating that all future General Assemblies, as best they could, would have to interpret the constitution. Truly, it was a bad state of affairs when we remember that in one year after the adoption of the new constitution, the General Assembly found itself unable to explain the constitutional provisions regulating suffrage.

Before 1830 elections had taken place at the county court houses on court days, which meant that elections in some counties were at one time and in others at still another time. After the adoption of the new constitution it was provided that the elections should be held in all parts of the State on the same day. Before 1830 a man voted in as many counties as he had freeholds, and, as election days were different, it was very easy for him to cast his vote wherever he held real estate. It was expected that by having a specified time for elections throughout the State, that double, treble and sometimes quadruple voting would be prevented, but yet we are told that many men were accustomed between 1830 and 1850 to vote in two or three counties by voting in the morning in one county, at noon in another and late in the afternoon in still another. The writer knows of a man who, in a very heated campaign, voted in Caroline, Spotsylvania, Stafford and Orange by riding and driving rapidly from one precinct to another. In the newspapers, about 1840, we find some considerable complaint of this double voting. It was believed to be in opposition to the spirit of the constitution.[2] By double and treble voting, the towns could control the counties around them. Many citizens of the towns would buy freeholds worth $25.00 in the adjoining counties. They would vote in the towns in which they resided and then hurry into the counties to vote. Richmond[3] could control the delegates from Hanover, Henrico,

[2] Enquirer, May 15, 1840.

[3] Enquirer, April 27, 1841. Cold Harbor was the place at which the Richmond voters concentrated to control the elections in Hanover. It was said that a tract of land known as "Sydnor's

and Chesterfield. Fredericksburg could control those of Spotsylvania and Stafford; Alexandria, those from Fairfax; and Norfolk City, those in Norfolk and Princess Anne counties.

By 1842 another constitutional convention for reform was advocated. As usual, Western Virginia led in the movement. The Legislature at the session of 1841-42 had failed to reapportion representation throughout the State.[4] According to the census of 1840, the West had a white population of 371,570 and the East a white population of 369,390, yet a House of Delegates of 134 members was distributed so unequally, that the West had only fifty-six, while the East had seventy-eight members. So the desire for a constitutional convention on the part of the West was primarily to reform representation, but at this time meetings[5] were being held in many parts of Western Virginia, asking for a complete change in the constitution so that representation might be properly reapportioned, and also asserting that the governor and all State officials and county officials ought to be elected by the people, and that the right of suffrage ought to be extended to every white man over twenty-one years of age. Even the people of the eastern part of the State, belonging to both the Democratic and the Whig parties, began to realize the undemocratic system of suffrage, and some advocated a convention to cut off double voting, to make it impossible for a man to vote except in the district where he resided. Some eastern people actually began to believe that it would be a good thing to have free manhood suffrage.[6] The "Enquirer" took up the western cry, advocating many reforms and especially a change in suffrage. This newspaper, though the leading organ of Eastern Virginia, asserted that no one understood the constitutional right of suffrage, that no two lawyers would agree about it, that no two Legislatures had

Tract" was divided into at least twenty-five small freeholds owned by Richmond voters.

[4] Enquirer, Aug. 19, 1842.

[5] Enquirer, Dec. 5, 1844.

[6] Enquirer, Dec. 7, 1844.

decided, or would decide, in the same way, questions referred to them concerning the suffrage, and that in some counties one construction was put upon the constitution, and in others, still another. Because of these difficulties much fraud and deception were being practiced in the elections.[7] In the newspapers of the day many articles were written trying to explain who could and who could not vote.[8] One writer asserted that "the constitutional provision regulating the right of suffrage has no prototype in any institution of civil government that the world ever saw. *No one* can understand it." Complaint was also made that there was a system of manufacturing votes for party purposes in vogue in many parts of the State.[9] In an important election in Hampshire county, we are told that 295 such voters were made. All of these men contracted for small freeholds before the election, paid no money on them and gave them up after the election. This system of manufacturing votes, together with the difficulty of interpreting the constitution, made doubtful from five to ten per cent.

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[7] Enquirer, July 22, 1845.

[8] Enquirer, April 25, 1843. The most knotty question to decide was what was meant in the constitution by a housekeeper who was assessed a part of the taxes being allowed to vote. A man who kept a tavern, for instance, was a housekeeper, and paid a license, but was this an assessment? Some claimed that those who were housekeepers and paid a license were entitled to vote, but the decision of the General Assembly in contested elections was that an assessment was a tax on property, while a license was a tax on a privilege.

[9] Enquirer, Sept. 30, 1845. According to a decision of the House of Delegates in 1838, a man could vote in virtue of a freehold which he had bought on time, provided that the man from whom he had purchased it, certified that it was a *bona fide* sale (Journal, 1838, p. 57). This, of course, made it possible for unscrupulous persons to make a great number of votes for party purposes. It was also possible for a man to take a lease for five years, two months before an election, for such estate as he was then occupying, and, if the annual rent was $20, he could vote because of it. After the election he could then be relieved of his lease. There were other ways, too, but these instances are enough to show how badly the constitution was framed.

of the votes cast at every election.[10] Many contests, therefore, ensued, and much valuable time was consumed by the Legislature in discussing and deciding these contests.

With such a state of affairs, it was but natural that a sentiment began to grow in Eastern Virginia in favor of a change in suffrage, while opposed to a change in representation. Many of the Eastern Virginians advocated free manhood suffrage because it was the only system, as they claimed, capable of getting the people out of the tangle into which the Constitution of 1830 had ensnared them. There was great need of a constitution in which the right of suffrage would be so plainly described that no misunderstanding could possibly arise.[11] Nothing but free white manhood suffrage would suit the conditions. The people of Hanover and Henrico counties were much disturbed over the system of double voting. The citizens of Richmond were accustomed to vote in these counties because they had deeds in their pockets for land which they had never seen.[12] In many parts of the State public meetings were held denouncing the existing conditions and advocating free manhood suffrage.

By 1846 every observant politician became aware of the fact that another constitutional convention was near, and that the East would be willing to accept universal manhood suffrage.[13] The great question which concerned the eastern politician was how to hold a convention and regulate suffrage and not to produce a great deal of trouble over representation. For three years no action was taken with reference to calling a convention.

In 1849 the people all over the State, and especially those of the East, demanded that the Legislature should submit to the vote of the people the question of calling a consti-

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[10] Jour. of H. of Del., 1831, Doc. No. 13; Journal, 1838, p. 70; Journal, 1845-46, Doc. 19, and Doc. 42; Jour., 1844-45, Doc. 27 and Doc. 52.

[11] Enquirer, Oct. 10, 11, 1845. [12] Enquirer, June 2, 1846.

[13] Enquirer, Dec. 15, 1846, Report of H. of Delegates.

tutional convention. The eastern people said that it was absolutely necessary to settle the question of suffrage, if nothing else,[14] and Governor Floyd in his message to the General Assembly advised a convention at once to regulate suffrage.[15] He said that the then existing system was a most glaring wrong and that Virginia, the home of democracy, ought to have a democratic franchise, namely: white manhood suffrage. In February, 1850, the General Assembly passed a bill to take the vote of the people for or against a convention.[16] Examination of the discussion which took place concerning the bill shows that those principles of reform which had been advocated by the western members of the Convention of 1829-1830, namely: the election of State and county officers by the vote of the people and the extension of suffrage to all male whites over twenty-one years of age, were now approved of by most of the members from the East; but the East was not willing to concede a convention organized on the basis of the white population, neither was it willing that a convention should be called with the intention of equalizing representation. The West, while anxious for other reforms, wanted first of all to have representation equalized for two reasons: (1) because to it the inequality of representation was the most glaring evil of our government, and (2) because if the convention should adopt all of the reforms for which the West had previously stood, excepting the equalization of representation, it would never be possible to bring about a reform in representation. Since the East was unwilling to grant the white basis to the West, the members from that section were, for the most part, opposed to the convention. The state of affairs was now peculiar.

The western people who had first of all desired a convention voted against the measure, while the eastern members voted for it, still some of the western members were

[14] Enquirer, Dec. 4, 1849.
[15] Governor's Message: Jour. of House of Delegates.
[16] Enquirer, Feb. 12, 19, 1850.

willing to have a convention in spite of the fact that their basis of representation was not acknowledged in the organization of the convention.[17]

In April, 1850, the convention bill was submitted to the vote of the people, and, though many reforms were proposed and needed, all of which reforms the West believed in, twenty-nine out of the forty-three counties west of the Alleghany Mountains cast large majorities against the convention, because representation based on white population was not an acknowledged reform which the convention should make. All of the western counties between the Blue Ridge and the Alleghany, and all of the eastern counties except two, gave majorities for the convention bill, which in spite of the opposition of the trans-Alleghany counties, was ratified by a large majority.[18]

In August the election of members to the convention was to take place; so, between April and August of 1850, the newspapers were filled with discussions of what the convention should accomplish. The following reforms were proposed: (1) biennial sessions of the Legislature, (2) election of the governor by the people, (3) election for limited terms of all judges, (4) reapportionment of representation, (5) free manhood suffrage, (6) taxation *ad valorem*, (7) restriction of the power of the Legislature to increase the State debt, (8) establishment of a public school system, and (9) the election of county officers by the people.[19] In nearly every newspaper was a letter from some one announcing his candidacy for a seat in the convention, and, on all of the proposed or demanded reforms, a large majority of the candidates declared their views.

[17] For a fuller account see my paper on Representation (J. H. U. Studies, 14th Series); also examine Enquirer, Dec. 21, 1849; Jan. 22, Feb. 12, 19, 26; March 1, 8, 15, 1850. When we consider the history of the State, it looks peculiar to see the West opposing a convention. This would not have been but for the fact that it was believed that the East intended to force upon the West the mixed basis of representation.

[18] See Returns of Vote in State Papers of 1850.

[19] Enquirer, March 20, 1850.

Six of the nine proposed reforms, as a rule, were accepted; but many were opposed to the election of judges by the people, while the views on representation were many and varied. On a whole the people in Eastern Virginia favored the mixed basis, while those in the West favored the white basis. Only one Eastern Virginian announced that he favored the white basis. This was Henry A. Wise of Accomac, and he was called a modern Jack Cade and a traitor. With reference to suffrage all the candidates in the West and most of those in the East expressed themselves in favor of white manhood suffrage. Some of the eastern men, however, wanted to get back to the old freehold system[20] as it had existed before 1830, while one or two expressed themselves in favor of an educational qualification;[21] yet a majority of the people of the State had undoubtedly made up their minds in favor of the extension of suffrage to all free whites over twenty-one years of age.[22] So at last, nearly twenty-five years after the death of Jefferson, the people of Virginia had come to accept his principle of suffrage, a principle which as early as 1776 he had advocated and which it took seventy-five years for Virginia to accept. The Virginia people were very conservative, and, though claiming to be democratic, were still aristocratic. And it is yet a moot question in Virginia whether, after all, the old Virginia democratic aristocracy was not right, and that the best and safest government is that which gives the suffrage to an enlightened property-holding class.

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[20] Whig, June 7, July 30, 1850. The Whig advocated referring to the people the question of suffrage, and to allow them to decide between a freehold suffrage, or free manhood suffrage. The editor preferred the freehold system.

[21] Whig, June 21, 1850. The plan was to establish a public school system and to require every voter to read and write. The assertion was made that there was more ignorance in Virginia than in any other State.

[22] Enquirer, April 18, 1850; Whig, May 31; June 4, 7, 21; July 4, 9, 16, 17, 19, 23, 30; August 6, 1850.

CHAPTER V.

THE ESTABLISHMENT OF UNIVERSAL WHITE SUFFRAGE.

The members of the constitutional convention assembled in Richmond, October 14, 1850. Of the 135 members, six had been members of the convention of 1829-30. The convention was organized by electing John Y. Mason as president. After a session of a few days it adjourned to await the census of 1850 which at that time had not been made public. It reassembled on the 6th of January, 1851, and remained in session until August 1st. This convention is known in Virginia history as the "Reform Convention," because it overthrew the aristocratic principles on which the government of Virginia had previously been organized. The battle in this assembly was over the question of the basis of representation, and the debate which took place upon this subject consumed most of the time and attention of the convention.[1] Over this question the convention came near splitting. The western counties spoke of separation and the organization of a new State west of the Alleghany. The Eastern Virginians were likewise so determined on their principle of representation, that in many sections there was a feeling in favor of the division of the State. After many severe encounters, some of the Eastern Virginia members surrendered to the West, and adopted a compromise basis of representation. Those members from the East who voted for this compromise were branded by the other eastern members as base "Judeans" and "vile

[1] For a full account of the proceedings of the convention on the question of representation, see my paper on "Representation in Virginia" (J. H. U. Studies, 14th Series).

traitors." The compromise basis which was so distasteful to the East was the recognition, to a certain extent, that every voter should have the same voice in the State government. The House of Delegates was apportioned on the white basis, and the West received a majority of the members. The mixed basis, however, was recognized in the apportionment of the members for the Senate, so that in this body the East had a majority.

Next to representation, the question of suffrage was the most important, and this created a lively and interesting debate. From the beginning it was evident that suffrage would be greatly extended, but to just what extent it was not certain. As usual, the motion for its extension came from the West. Mr. Waitman T. Willey offered a resolution that suffrage should be extended to every free white man of the age of twenty-one and upwards.[3] The question of suffrage was then referred to a special committee which reported February 4, 1851.[3] As made, the report advocated allowing the franchise to every male white over twenty-one years of age, provided he had been a resident of the State for two years, and of the county or town or city where he offered to vote, for one year, but no person in the United States naval or military service, because he was stationed in the State, no pauper, no idiot, no insane person, no person having been convicted of an infamous crime or of bribery in elections, or of voting fraudulently, and no naturalized citizen of the United States who had not taken the oath of allegiance to the State, was to be given the franchise in Virginia.[4] A substitute was offered that only freeholders whose property was worth at least $25.00, and residents who had been assessed with a part of

[3] Journal of Convention, 1850-51, p. 46. Mr. Willey died only recently at a very old age. He was probably the longest survivor of the members of this convention.

[3] Journal of the Convention, p. 58. The committee consisted of sixteen, of whom Joseph Johnson, afterwards governor, was the chairman.

[4] Debates of Va. Reform Convention, p. 109.

the revenues of the Commonwealth or levies of the county for one year preceding the election and had actually paid these assessments, should be granted the franchise.[5] On the other hand, the proposition was made to accept the report of the committee on suffrage with two exceptions: (1) that the residence of two years in the State be reduced to one, and (2) that a man be required to pay his taxes before election day.[6] These propositions were rejected, and the report of the committee was adopted July 16th without change.[7] There are no reports of the debates on the suffrage question in any of the newspapers, and no printed volumes of the debates have been found except one which closed May 1, and, since the suffrage report was not taken up until May 30, it is impossible to get any idea of the feeling which existed with reference to suffrage; but we have every reason to believe, because of the silence of the newspapers and because of the fact that the journal of the convention does not record the ayes and noes, that the new system of franchise was almost unanimously adopted. The journal simply stated that the report of the committee on suffrage was adopted. It is marvelous how, in the period of twenty years, the sentiment of the people had become so changed that suffrage could be extended to all male whites without newspaper comment or even a call for the ayes and noes in the convention. Just twenty years before, when such a proposition as universal manhood suffrage was proposed in Virginia's famous convention, the great political leaders of the State had denounced the movement as the first step to anarchy and ruin.

The embodiment of universal suffrage in the new constitution left Richmond in a peculiar condition. Under the charter of Richmond, no man who did not have property,

[5] Ibid., p. 254. [6] Ibid., p. 272.

[7] Journal of Convention, pp. 126, 236, 237, 309, 312-316. Many propositions were rejected, but the feeling which desired the payment of taxes before exercising the right of suffrage came near prevailing.

either real or personal, worth one hundred pounds, could vote for city officials. As soon as the citizens of Richmond saw that the new basis of suffrage was to be adopted, they petitioned to the convention that suffrage should be made uniform throughout the State, so that men, residing in Richmond qualified to vote in federal and State elections, would also be electors in city elections.[8] The convention, however, declined this petition[9] on the ground that the charter of Richmond had been granted by the General Assembly and that it fell to the General Assembly to amend the charter, so that all male whites residing in Richmond might have a voice in the city government. After the adoption of the new constitution, in 1852, the first General Assembly, elected under the new government, remodeled the charter of Richmond,[10] and suffrage then became the same throughout the State for all elections, whether federal, State or municipal. The suffrage clause, as embodied in the constitution, which was ratified by the people in October, 1851, was simply as follows: "Every white male citizen of the Commonwealth of the age of twenty-one, who has been a resident of the State for two years, of the county, city or town where he offers to vote, for twelve months next preceding an election—and no other person—, shall be qualified to vote for members of the General Assembly and all other officers elected by the people; but no person in the military, naval or marine service of the United States shall be deemed a resident of the State, by reason of being stationed therein. And no person shall have the right to vote who is of unsound mind, or a pauper, or a non-commissioned officer, soldier, seaman or marine in the service of the United States, or who has been convicted of bribery in an election, or of any infamous offense."[11]

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[8] Whig, July 25, 1851.

[9] Whig, Aug. 1, 1851. John Minor Botts moved that the redress be granted, but his motion was defeated by a vote of 58 to 37.

[10] Supra, p. 20.

[11] Constitution of 1851; Documents of 1851, p. 39. The new constitution was adopted by a large majority, and was submitted,

This was a great improvement upon the Constitution of 1829-30. It was simple and direct and left no doubt as to who was qualified to vote. No longer could it be said that no two of our best constitutional lawyers could agree on the suffrage clause of the constitution. No longer would the sessions of the General Assembly be wasted in trying to decide contested elections which would never have occurred had the constitution been so framed that it could be interpreted by any man of moderate intelligence. The new constitution had extended suffrage more than sixty per cent.[12] In 1851 the vote for governor was 110,000, and by the census of 1850 the white population was 895,867, so that at this time about thirteen per cent. of the people had voted; whereas before the extension of suffrage, at best, only about eight or ten per cent. of the people enjoyed the suffrage.

The convention of 1850-51 did far more towards reform than the people of the East had desired. On the question of representation it had yielded to the demands of the West. It had adopted nearly all of the reforms which had been advocated by the West even to the election of the judges by the people. Virginia had come up to this convention as an aristocratic government, but the new constitution made it one of the most democratic States of the Union. The State had only eight years in which to try its new form of government, a period hardly long enough to justify any conclusions as to how a broad, unrestricted democracy would succeed; and since these years were a period of great political strife in the affairs of the nation, little time could be given to a consideration of the internal conditions of

as was the constitution of 1830, to those qualified, according to the new constitution, to be voters. The reforms accomplished were: (1) A more equitable apportionment of representation; (2) extension of suffrage; (3) election of governor and judges by the people; (4) a better system for taxation, and (5) election of all local officers by the people.

[12] Whig, Dec. 23, 1851, and Documents in Appendix to the Journal of the Convention of 1850-51.

the State. So we find very little complaint of the new form of government. The chief grievances which seemed to have concerned some of the leading politicians grew out of the fact that influential and wealthy planters often intimidated the poor whites, who were thus forced to exercise the franchise as ordered. The system of voting was still what it had been in 1619, *viva voce*. As yet a Virginian did not believe in the secret ballot. There was no longer any double or treble voting, as a man could only vote in the district where he resided. On the whole, we have every reason to believe that the new system of suffrage was satisfactory, and it is only to be regretted that it could not have been tried longer, but the cruel power which tears down governments and works revolutions came upon the State. Civil War forced Virginia from the Union; soon slavery was abolished; Amendments XIII, XIV, and XV were added to the Constitution of the United States, and the question no longer turned on free white manhood suffrage, but resolved itself into a problem of universal suffrage which was not to be limited by "race, color, or previous condition of servitude."

CHAPTER VI.

THE "UNDERWOOD CONSTITUTION."

The great questions of State government having been settled by the new constitution, and Virginia having become a democracy, the people of the State turned their attention to the all-absorbing questions of national politics—secession and slavery. Those persons in Eastern Virginia who were known as the "poor whites," having received the right of suffrage, though often intimidated by the influential planters, were true to the State, which is shown by the fact that, when the Civil War came on, they were willing to sacrifice their lives for Southern principles. The agitation of slavery throughout the country soon brought on the crisis in the nation which resulted in secession. In February, 1861, a convention met at Richmond which, after vain efforts to reconcile the North and the South, finally passed an ordinance of secession by a vote of 81 to 51.[1] The section west of the Alleghany Mountains opposed secession, and organized a government to act in concert with the Union, and called it the Government of Virginia. Francis H. Pierpont was made governor. A constitutional convention was called, and a constitution for West Virginia adopted, February 18, 1862.[2] Then in May, 1862, a Legislature met at Wheeling, claiming to be the Legislature of Virginia, though composed entirely of men from the

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[1] Code of Va. (1873), pp. 2, 8.

[2] For a full account of this, with references, see my paper on Representation in Virginia (J. H. U. Studies, 14th Series), ch. vii. The West Virginia Constitution adopted the same suffrage qualifications as the Virginia Constitution of 1851. Poore: Fed. & State Consts., vol. ii, p. 1979.

trans-Alleghany counties (about one-third of the counties of the State), and passed a bill giving the consent of the *State of Virginia* to the formation of this new State.[3] By a proclamation of the President of the United States issued the 19th day of April, 1863, West Virginia was to become a part of the Union in sixty days after this proclamation.[4]

The Pierpont Government, having accomplished the dismemberment of Virginia, was, in 1863, transferred from Wheeling to Alexandria. The General Assembly held at Alexandria passed a bill calling for a convention to frame a constitution for the remaining portion of Virginia. A convention accordingly assembled at Alexandria, February 13, 1864. Very few counties were represented, but a constitution was adopted.[5] This was never submitted to the people for ratification.

By this constitution, slavery, or involuntary servitude, was abolished in the State of Virginia. Suffrage remained the same as had been established by the constitution of 1851; but no man could vote unless he had paid all taxes for which he had been assessed.[6] All persons were likewise disfranchised who, since the first of January, 1864, had aided or abetted the "rebellion" then in progress. The right, however, was granted to the Legislature to remove the disabilities of those thus disfranchised. At the close of the Civil War, President Johnson by proclamation recognized the Alexandria Government as the legal government of the State, and the Alexandria Constitution as Virginia's constitution. Governor Pierpont then moved his government to Richmond; and there, on June 19, 1865, a General

[3] Code of Va. (1873), p. 14. Under the Constitution of U. S. it was necessary that the Legislature of Va. should give consent to the formation of a new State out of its territory (U. S. Const., art. iv, sect. 3, cl. 1); hence we see one-third of the State claiming to be the whole State.

[4] Code of Va. (1873), p. 15. An act for the admission of West Virginia had passed Congress, Dec. 31, 1862.

[5] Code of Va. (1873), p. 18.

[6] Poore: Fed. and State Consts., vol. ii, p. 1939.

Assembly, which was a fairly representative body, met. The governor sent in a message asking that an act be passed to allow him the right to submit to the vote of the people the question of the Legislature being granted the power of amending Art. III of the constitution, the article which related to suffrage. Pierpont held that this ought to be done because the disfranchising clause in the constitution prevented more than ninety per cent. of the whites from voting. He believed that the Virginians who had been in the "rebellion" had erred through misjudgment, and should not be regarded as traitors; and that by all means they should have a voice in the State government, as they paid nearly all of the taxes of the State.[7] This request was embodied into an act which passed June 21, 1865; and, when submitted to the people in the fall of 1865, it was approved at the same time that a new General Assembly was elected.[8] In carrying out the provisions of this act the Legislature granted suffrage to all male whites over twenty-one years of age who had paid taxes to the State. Not a word was said about any one who had taken part in the Civil War, and no man was disfranchised because of any part in that war.[9] The members of the Legislature, however, were not yet satisfied with the constitution. It was claimed that the constitution under which they were living had been hatched in a "cock-loft" in Alexandria, and had been forced upon them at the bayonet; so several attempts were made to call a constitutional convention to frame a new constitution for the State.[10] After much debate, it was decided to drop the matter, as it would be inexpedient for the State to undertake to make a new constitution while the Congress of the United States was still hostile to the South. At this time the XIVth amendment to the Constitution of the United States was sub-

[7] Enquirer, Dec. 1, 1865; Journal of H. of Del., 1866-67, p. 2.
[8] Acts, 1865-66, p. 197. [9] Ibid., p. 226.
[10] Journal of House of Delegates, 1865-66, p. 444; Journal, 1866-67, pp. 25, 152.

mitted. Pierpont was a much wiser man than the people of Virginia are willing to acknowledge. He had in a high handed way been the moving spirit in separating West Virginia from the State. He had raised 25,000 troops for the Union army, and, consequently, was regarded by the Eastern Virginians as a traitor. Yet, as we see him at this time, we cannot but believe that he was a conscientious man, and, having at heart the Union, he forgot for a time his native State; but, when President Johnson acknowledged him as the real governor of the State, he seems to have taken a deep interest in building up Virginia and desired to overlook the fact that any citizen had borne arms against the Union. When the XIVth amendment was submitted by Congress to the States for ratification, Pierpont saw the temper of the Federal Congress, and in his message to the Virginia Legislature he advised that the State should ratify at once.[11] He said that the State should become at once a constituent part of the United States, and that its voice should again be heard in the halls of the Federal Congress, that Virginia's example would probably be followed by the other Southern States, and that these States, once in the Union, could prevent any oppressive legislation which Congress might afterwards desire to enact. He said that the absolute control of suffrage would then be in the hands of the States, and with the South once more represented in Congress, it would be impossible for the Federal Government to enforce negro suffrage. In other words, Pierpont saw that the rejection of the XIVth amendment by the Southern States would only incense Congress, and finally result in still another amendment which would establish negro suffrage. If Pierpont's advice could have been followed, we might never have had the XVth amendment with the many evil results which have followed from it. The Legislature, however,

[11] Journal of House of Delegates, 1866-67, pp. 2-3; Document No. 1, p. 37; Enquirer, March 7, 1867.

refused to ratify the XIVth amendment.[13] Only a few months after Congress passed the two famous reconstruction acts (one of March 2, and the other of March 27, 1867), which made provision for the reorganization of the governments of the Southern States.[13] By these acts the Virginia government, previously recognized by Johnson, was disregarded, and Virginia was put under military rule. General J. M. Schofield was made military commander in Virginia, but Pierpont continued for a while to act as governor under Schofield's directions. The military commander, under the reconstruction acts, was instructed to take, before September 1, 1867, a registration of all persons entitled to vote, that is of all male persons over twenty-one years of age, white or colored, but all persons who had held any military or civil office (no matter how insignificant) under the United States, or in any State, and had taken the oath of allegiance to the United States, and afterwards had in any way aided the "rebellion" were disfranchised. An election should then be held to take the sense of the registered voters for calling a constitutional convention and at the same time to elect delegates to the convention. October 22, 1867, was appointed by General Schofield as the date for the election. For the first time negroes voted in Virginia. The elections were conducted by ballot, and the negro votes were placed in one ballot box and the white votes in another.[14] By this means we are able to ascertain the sentiment of the whites and the blacks. At the election, 76,084 whites and 93,145 negroes voted. The vote for the constitution was 107,342, of which number only 14,835 were whites. The vote against the convention was 61,887, of which only 638 were negroes.[15] Thus we see that the whites were violently opposed to the convention,

[13] Acts, 1866-67, pp. 508-509.

[13] See these acts in Documents of Convention, 1867-68, p. 8, et seq.

[14] Enquirer, Oct. 23, 1867. This was the first election ever held by ballot in Virginia. The *viva voce* system had always prevailed.

[15] Documents of Convention (1867-68), pp. 52, 56.

while the negroes were greatly in favor of it. The white people were anxious to delay the reorganization of the State because they believed that in a short time a reaction would take place at the North—that the Democratic party of the North would win in the elections and that the South would be able to get better terms.

The convention assembled in Richmond, December 3, 1867, and remained in session until April 17, 1868. It was composed of 105 members, of whom 81 were whites and 24 negroes. According to the parties there were 68 Radicals or Republicans and 37 Conservatives or Democrats. Thirty-three members were non-natives of the State, persons who had come to Virginia from the North immediately after the Civil War and were known as "carpet-baggers." The Radical party of 68 contained 14 white Virginians who were known as "scallawags." Putting it another way, 54 members of the convention were northern incomers and negroes, who together formed a majority.[18] The convention was thus controlled by an element foreign to the best interests of the State, so the best people of Virginia have always been violent in their denunciation of the constitution which it drafted. Judge J. C. Underwood, a native of New York, a man thoroughly detested in Virginia, was made president of the convention; therefore, the constitution which was adopted has always been known as the "Underwood Constitution."

The convention was organized by the appointment of twenty standing committees to report clauses for a constitution. The committee on elective franchise, composed of

[18] Dispatch, April 10, 1868. Fourteen were from New York. A native of New York was made president. A Marylander was made secretary, and another sergeant-at-arms. An Irishman from the North was made stenographer, and a native of New Jersey, assistant clerk. The doorkeepers were negroes, and the chaplain was from Illinois. All the pages, except one, were negroes or sons of Northern men, and the clerks of the twenty standing committees, with a few exceptions, were negroes and Northern men. Such a convention was necessarily distasteful to native Virginians.

eleven members, was one of the most important.[17] Seven of its members were Radicals and four were Conservatives. Mr. Hunnicutt was chairman of this committee. As was expected, the committee did not agree. The Radicals brought in a majority report, and the Conservatives a minority report.[18] The majority report favored universal suffrage for all males over twenty-one without limitations, except that all persons who had been disfranchised under the reconstruction acts should not be allowed the right of suffrage in Virginia. Moreover, no man should be allowed to be elected to office who had in any way aided or engaged in the "rebellion." The minority report advocated the franchise being given to all male whites who had paid taxes to the State for a year preceding the election. The debate on these reports began on the 20th of February, 1868, and, with more or less interruptions, lasted to the first of April. It was evident to all that the Radicals would carry their measure, but the Conservatives did all they could to worry them. In the course of the debate many disagreeable things were said by both the Conservatives and the Radicals. The negroes were a very unruly element and gave offense to the better class of the Radical party. A Conservative member, Mr. Liggett, of Rockingham, became disgusted with the whole procedure and so stated in the convention, and, on refusing to vote when the ayes and noes were called, he was expelled from the convention.[19] The negroes would have been glad to have disfranchised every white man in the State, if it could have been done; and about one-third of the Radical members from the North were in sympathy with the negroes. General B. F. Butler visited Richmond while the convention was in session, appeared before it,[20] and urged that all should be disfranchised who held promi-

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[17] Enquirer, Dec. 11, 13, 1867.

[18] Documents of Convention, 1867-68, pp. 156, 193; Enquirer, Feb. 13, 1868.

[19] Enquirer, March 15, 1868. [20] Enquirer, Jan. 15, 1868.

nent places in the community—such as presidents of banks and of stock companies, etc. After five days of debate on the minority report, it was rejected by a vote of 29 to 59.[21] In their argument for the minority report the Conservatives claimed that there could be no doubt of the fact that this was a "white man's country," and that their effort to establish negro domination would eventually result in bloodshed and riot. They claimed that Jefferson was a true prophet, that he had said: "Nothing is more certainly written in the book of Fate than that these people (negroes) are to be free; nor is it less certain that the two races, equally free, cannot live under the same government."[22] As the Conservatives saw it, there would be no use in trying to give the two races equal rights in the same government. After the rejection of the minority report, the Conservatives tried in vain for a property qualification; and then a proposition for an educational qualification to take effect in 1875 also failed.[23] After these failures the disgust of the Conservative element is pretty well shown by the motion of Mr. E. Gibson: "No white man shall vote or be eligible to any office within this State."[24]

The spirit of the convention was decidedly against all persons who had in any way engaged in war against the Union. Hunnicutt declared that he was in favor of disfranchising 30,000 more in Virginia than had been disfranchised by the reconstruction acts,[25] but Hine and Hawxhurst seemed to be most determined to persecute the whites of the State. Hine moved that, in addition to those who had been disfranchised, all persons who had held any position in the army ranking above first lieutenant should be excluded from the right of voting. This produced a division in the Radical ranks. Only 32 of their number voted

[21] Enquirer, March 5, 1868. [22] Enquirer, Feb. 21, 1868.
[23] Enquirer, Jan. 22, 1868; Journal of Convention, 1867-68, p. 273.
[24] Journal of Convention, 1867-68, p. 227; Enquirer, March 7, 1868.
[25] Enquirer, March 4, 1868. This was desired in order that the negro vote might control all elections.

for it. These were 22 negroes and 10 of the Northern incomers.[26] Mr. Hine then proposed to disfranchise all original secessionists, *i. e.* persons who had voted for candidates pledged to secession in 1861. This also received only 32 votes, as opposed to 51 against it.[27] Hawxhurst then proposed that no candidate for the secession convention, if he had been pledged to secession, should vote.[28] With reference to the ironclad oath, the Radicals had no trouble in embodying it in the constitution,[29] though General Schofield appeared in the convention and advised them to leave this out. He also thought the disfranchising clause ought to be omitted. He was hissed and called "King Schofield" by the negroes.[30] The constitution, as finally adopted by the convention, contained the following clauses with reference to the elective franchise:[31]

"Art. III, Sec. 1. Every male citizen of the United States, twenty-one years old, who shall have been a resident of this State for twelve months and of the county, city or town in which he shall offer to vote, three months next preceding any election, shall be entitled to vote upon all questions submitted to the people at such election: Provided, That no officer, soldier, seaman, or marine of the United States army or navy shall be considered a resident of this State by reason of being stationed therein: And, Provided also, That the following persons shall be excluded from voting:

1. Idiots and lunatics.

2. Persons convicted of bribery in any election, embezzlement of public funds, treason or felony.

3. No person who, while a citizen of this State, has, since the adoption of this Constitution, fought a duel with a deadly weapon, sent or accepted a challenge to fight a duel with a deadly weapon, ever within or beyond the boundaries of this State, or knowingly conveyed a challenge or aided or assisted in any manner in fighting a duel, shall be allowed to vote or hold any office of honor, profit, or trust, under this Constitution.

4. 'Every person who has been a Senator or Representative in Congress, or elector of President or Vice-President, or who held

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[26] Enquirer, March 25, 1868.

[27] Ibid. [28] Enquirer, March 27, 1868.

[29] Enquirer, March 24, 1868. The vote was 43 to 29.

[30] Dispatch, April 18, 1868.

[31] Enquirer, April 20, 1868, and Code of Va. (1873).

any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a Member of Congress or as an officer of the United States, or as a member in any State Legislature, or as an executive or judicial officer in any State, shall have engaged in insurrection or rebellion against same, or given aid or comfort to the enemies thereof.'[32] This clause shall include the following officers: Governor, lieutenant-governor, secretary of the State, auditor of public accounts, second auditor, register of the land office, State treasurer, attorney-general, sheriffs, sergeants of the city or town, commissioner of the revenue, county surveyors, constables, overseers of the poor, commissioner of the board of public works, judges of the supreme court, judges of the circuit court, judges of the court of hustings, justices of the county courts; mayor, recorder, aldermen, councilmen of the city or town; coroners, escheators; inspectors of tobacco, flour, etc.; clerks of the supreme, district, circuit and county courts, and of the court of hustings; and attorneys for the commonwealth: *Provided*, That the Legislature may, by a vote of three-fifths of both Houses remove the disabilities incurred by this clause from any person included therein by a separate vote in each case."[33]

Section 7 of the following is the "ironclad" oath which would have excluded all of the best citizens of the State from any public office:

"Sec. 6. All persons, before entering upon the discharge of any function as officers of this State, shall take and subscribe the following oath or affirmation:

'I, ————————, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of the State of Virginia; that I recognize and accept the civil and political equality of all men before the law, and that I will faithfully perform the duty of ———————— to the best of my ability. So help me God.'

Sec. 7. In addition to the foregoing oath of office, the governor, lieutenant-governor, members of the General Assembly, secretary of State, auditor of public accounts, State treasurer, attorney-general, all persons elected to any convention to frame a constitution for this State, or to change, alter, or amend or revise this constitution in any manner, and mayor and council of any city or town, shall before they enter on the duty of their respective offices, take and subscribe the following oath or affirmation, provided, the disabilities therein contained may be individually removed by a three-fifths vote of the General Assembly:

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[32] This is quoted from the reconstruction acts.

[33] This fourth clause is usually spoken of as the "disfranchising clause."

'I do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have never sought nor accepted, nor attempted to exercise the function of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.'

The above oath shall also be taken by all city and county officers before entering upon their duties, and by all other State officers not included in the above provision."

These clauses were extremely offensive to the white people of Virginia. The sentiment which then prevailed and which now prevails to a great extent is shown by the following extract from an editorial in the Enquirer:[34]

"The white men of Virginia mean to control the government of this State, and they are determined not to allow themselves to be governed by an inferior race, so lately their illiterate slaves. They do not intend to prove themselves unworthy of their proud ancestry, nor permit the priceless heritage of fame and glory which has been handed down to them from their world-honored sires, now to be dragged in the filth and mire by a mob of ignorant negroes, led on by a handful of low adventurers the blackness of whose hearts constitutes their only tie of fraternity with their black-faced followers. This determination will be adhered to as the son of Hamilcar kept his oath of hostility to Rome." The Enquirer claimed that there was no feeling of animosity towards the negroes, but that it was out of the question to think that the white, intelligent race could submit to be ruled by their former slaves.

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[34] Enquirer, April 20, 1868.

The Conservative members of the convention were thoroughly incensed by the new constitution, and issued an address to the people of Virginia, arraigning the constitutional convention and its motives.[35] They said that all the taxes were placed upon the whites, that representation was so apportioned as to give the negroes control of the Legislature, that the idea was, if possible, to have mixed schools, that property would not be safe, that the new county system, as proposed, would work very seriously for the whites, that by the "ironclad" oath 999 out of every 1000 of the whites would be incapable of holding office, and that the suffrage clause was an outrage.

The following extracts present the Conservative view of the "Underwood Constitution."

"There is universal negro suffrage, without limitation, except that the party shall be a male, of sound mind, twenty-one years of age, who has not been convicted of crime, and who has resided twelve months in the State and three months in the county where he proposes to vote. We could not secure any educational or property qualification whatever; not even the prepayment of taxes; not even the prepayment of one dollar poll-tax. We could not even persuade them to exclude paupers. But this universal suffrage was confined to negroes; all whites who ever held any office, civil or military, in the State including the large list of county and municipal officers and who afterwards participated in the 'rebellion,' are excluded not only from office, but from the elective franchise. The object of this was to secure, as Mr. Botts expressed it, in an address made before the Radical members of the convention, 'a good working majority' in the State, to give a decided preponderance to the negroes in the Legislature as well as in the county organization."

In connection with these views on suffrage, we may note also what the Conservatives thought to be the prevailing spirit in the North:

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[35] Enquirer, April 20, 1868.

"Every Northern State which has voted on the subject since the close of the War has rejected negro suffrage. Ohio, on a direct issue, no later than last fall, did so by a majority exceeding 50,000. Kansas, Minnesota and Connecticut had previously done the same thing. The late Constitutional Convention of New York deliberately recoiled from deciding the question. And Michigan, hitherto so overwhelmingly Republican, has just voted down her new Constitution by a majority of 30,000, because it admitted the negroes to the polls. The census shows that there were only some 35,000 negroes in Ohio in 1860. There could have been only about 7000 negro voters in that State, had they been enfranchised. In Michigan there are only about 500 male negroes twenty-one years of age. The white voters number more than 165,000. And yet this State, where a Republican Governor was elected in 1866 by a majority of 29,038, refused by some 30,000 majority to let 500 negroes vote."

The members who issued this address expressed no hatred of the negroes, no feeling of animosity towards them, acknowledged that they had behaved well during the war and that they were entitled to thanks for their behavior. The feeling, however, was intense against the Northern incomers and the native whites who hoped to gain power through the negro vote. The Conservatives desired to give the negro the protection of the law and to give him employment, but, because the negroes belonged to an inferior race, they did not believe that the two races could have equal political rights and live in peace and harmony. They believed that they were to have "unmitigated negro rule" by means of the few whites in the Radical party. They believed that the State government would be in the hands of a group as mixed as that which composed the convention.

The Conservative party proceeded to organize throughout the State with the determination, if possible, to defeat the new constitution which was to have been submitted to

the vote of the people on the 2nd of July, 1868; but on account of the failure of the Federal Government to provide means for holding the election, Schofield decided that the election should not be held.[36] In the fall of 1868 the presidential election took place, and resulted in the election of General Grant, who became President, March 4, 1869. A milder feeling towards the South came to exist in official circles in Washington. In Virginia a split occurred in the Radical party, one faction following H. H. Wells who had succeeded Pierpont in 1868.[37] This faction was vigorous in favoring the adoption of the "Underwood Constitution" with its "disfranchising" clause and its "ironclad" oath. The other faction was headed by Gilbert C. Walker and declared its opposition to the "Underwood Constitution" unless the "disfranchising" clause and the "ironclad" oath should be removed.[38] The State officials were also to be elected when the constitution was submitted. Wells was the gubernatorial nominee of one faction, and Walker of the other. The Conservatives also had in the field a ticket. Such was the state of affairs in April, 1869, when a bill passed Congress providing that the "Underwood Constitution" should be submitted to the vote of the people of Virginia.[39] Because of the disaffection in the Radical ranks and the opposition of the Conservatives, Congress had every reason to believe that the "Underwood Constitution" would not be ratified by the vote of the people. So the bill provided that the President should have discretionary powers as to the time for holding the election, and that he might, also, set aside such clauses of the constitution as he might think should be voted on separately by the people of Virginia.[40] Early in May the Conservatives, on assur-

[36] Dispatch, April 5, 1868.

[37] Enquirer, April 6, 7, 1868. Wells was from New York, and it was claimed that Pierpont was removed because he was distrusted on account of being a native of Virginia.

[38] Enquirer, March 26, 1869.

[39] Code of Va. (1873), p. 26.

[40] Code of Va. (1873), p. 26.

ance that President Grant would probably set aside the 4th clause of the first section of the third article of the constitution (*i. e.* the "disfranchising clause"), and the 7th section of the third article (*i. e.* the "ironclad" oath), withdrew their candidates, and, though they made no declaration, they threw their support to Gilbert C. Walker and his ticket.[41] Grant issued his proclamation on May 17, stating that the election on the ratification of the constitution should take place on the 6th of July, 1869, and, as expected, set aside the two clauses to be voted on separately.[42] The "disfranchising clause" was rejected by a vote of 124,360 to 84,410, and the "ironclad" oath by a vote of 124,715 to 83,458, but the constitution was adopted by a vote of 210,585 to 9,136.[43] So we see that the chief opposition to the "Underwood Constitution" had been the suffrage clauses.

With the "disfranchising clause" and the "ironclad" oath removed, the Constitution of Virginia remained as adopted by the "Underwood Convention." Under the constitution, amendments could be added provided they were introduced and carried through one Legislature, and, after being approved by the next Legislature, they were ratified by the vote of the people. In 1875, when the Legislature was under the control of the Democrats, a bill was passed to amend the constitution so that no man could vote unless he had paid his capitation tax before the election day. This was approved of by the next session of the Legislature on February 22, 1876,[44] and was ratified by the vote of the people in November of the same year. The amendment was carried by a majority of 31,014.[45] This

[41] Enquirer, May 4, 1869.
[42] Code of Va. (1873), pp. 26-27; Enquirer, May 17, 1869.
[43] Code of Va. (1873), pp. 26-27.
[44] Acts, 1875-76, p. 83; Poore's Fed. and State Consts., vol. ii, p. 1975.
[45] Governor's Message: Journal of H. of Del., 1876-77, p. 22. Suffrage was not the only thing changed. An amendment was carried to have biennial sessions of the General Assembly, and thus to save much expense to be incurred by annual sessions.

was aimed at the negro, as it was believed that he would fail to pay his poll-tax as required.[46] The scheme did not work well. It gave an opportunity for fraud. Candidates would frequently buy votes by paying the taxes; and, in addition to the fraud, it often involved heavy expenses on the candidates, as many men who had decided how they would vote, would not pay their poll-taxes, and the candidates and party organizations would have to pay for them. This was a very expensive business.

In 1880 the so-called "Re-adjuster" party was in power, They introduced a resolution in the Assembly to amend the constitution by repealing the poll-tax clause.[47] They claimed that the whole thing was a scheme of the Democrats by which many poor whites and negroes were disfranchised. The Democrats claimed that the "Readjusters" were trying to appeal to the lower classes, and to make votes by introducing the measure; still it was pretty generally conceded that the revenues of the State had not been increased to any appreciable extent by the poll-tax prerequisite for voting and that a great deal of fraud had come out of it.[48] The Legislature approved of the bill to repeal the poll-tax clause. At the session of 1881-82 the measure was again approved and submitted to the vote of the people in November, 1882, and adopted by a large majority. Many Democrats, as well as "Re-adjusters," seemed to have come to the conclusion that the best thing to do was to get rid of the measure. The Dispatch, in an editorial which very probably voiced the sentiment of the leading politicians of the State, said: "So there will be no money needed hereafter to pay capitation taxes in Virginia as a means of increasing the vote of their party."[49] Since 1882 there has been no change in the suffrage.

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[46] Dispatch, Feb. 28, 1880.

[47] Dispatch, Feb. 27, 28, 1880; Acts, 1879-80, pp. 296-297.

[48] Message of Governor Cameron: Jour. of Senate, 1881-82, p. 72; Dispatch, Jan. 15, 1882; Feb. 28, 1880; Nov. 21, 1882.

[49] Dispatch, Nov. 14, 1882.

There has always been in Virginia a decided opposition to the "Underwood Constitution," and for some time there has been a strong sentiment for a constitutional convention. At every session since 1874 resolutions have been offered either to amend the constitution, or to take the vote of the people on calling a constitutional convention.[50] A bill to call a constitutional convention passed the House of Delegates in 1878, but was postponed indefinitely by the Senate.[51] For about ten years the public debt and the expenses of the government were the all important questions, and, in 1888, a bill passed the General Assembly to take the voice of the people with reference to a convention.[52] This was required by the "Underwood Constitution." At the elections in November of that year the convention was voted down.[53]

During the last ten years the desire for a change in suffrage has become evident to all observant persons, but the question of how to change suffrage is far from being solved. Some want an educational qualification, claiming that no man ought to vote who has not a certain amount of intelligence and that an educational qualification is the best test for this. Then it is thought that the educational qualification will disfranchise quite a number of negroes. Others want a property qualification, believing that this will disfranchise more negroes. Others would be glad to see both the educational and property qualification, pro-

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[50] Journal of H. of Del., 1877-78, p. 261; 1879-80, p. 251; 1883-84, pp. 26, 64, etc.; 1884 (extra session), p. 154; 1885-86, p. 213; 1887 (extra session), pp. 31, 32; 1888-89, p. 410; 1891-92, p. 379; 1893-94, pp. 16, 208, etc.; 1895-96, pp. 204, 409; 1897-98, p. 693; 1899-1900, pp. 39, 127, etc.

[51] Journal of H. of Del., 1877-78, pp. 391, 494, 508. The Dispatch at this time declared against a convention and said that every constitutional convention in Virginia had gone from bad to worse (Dispatch, Feb. 21, 1878).

[52] Journal of H. of Del., 1887-88, pp. 397, 410.

[53] Dispatch, Nov. 7, 1888. There was no interest in the matter.

vided that no veteran of the Civil War or descendant of such a person would be disfranchised.[84]

Within the last decade three resolutions have been offered in the General Assembly to amend the suffrage clause in the constitution.[85] The only one which was approved by either House was the Le Cato resolution which passed the Senate in February, 1898. This resolution proposed to go back to the capitation tax as a requisite for voting.[86] It failed to pass the House of Delegates. The failure of the General Assembly to offer any amendment with reference to the electoral franchise was not from an unwillingness to change, but because there had been a strong hope for a constitutional convention where this matter might be fully discussed.

In 1896 Senator Eugene Withers offered a resolution providing for the calling of a constitutional convention which passed both the Senate and the House.[87] By the provisions of this resolution, at the election held the 4th Thursday in May, 1897, the vote of the people was taken. The vote for the convention was 38,326; and against the convention, 83,435.[88] This seemed a decided majority, and would, at first sight, indicate that the people did not want a convention. The facts in the case are that a large majority of the Democratic party desired a convention, but had no fixed views as to what changes ought to be made in suffrage. When such a man as Congressman William A. Jones advised the people to vote against a convention be-

[84] See Dr. Priddy's proposed amendment to constitution, Dispatch, Jan. 6, 1900, and Journal of House of Del., 1899-1900, p. 127; Dispatch, Feb. 2, 3, 1898.

[85] Journal of House of Delegates, 1897-98, p. 662; 1899-1900, p. 127; 1891-92, p. 379.

[86] Dispatch, Feb. 9, 1898; Jan. 5, 1900; Jour. of H. of Del., 1897-98, pp. 662, 693.

[87] Mr. Withers claimed that the expenses of the State demanded a convention at once. The expenses in running the State of Virginia were two-thirds as much as North Carolina and Georgia combined. Dispatch, Feb. 23, 1896.

[88] Journal of House of Delegates, 1897-98, p. 78.

cause the Democrats seemed divided, it was but natural that the measure should fail.[59] The papers also thought it inexpedient to call a convention under these conditions, and the Democratic State Convention held at Staunton failed to make the calling of the convention a party issue.[60] On the other hand, a Republican Convention held at Staunton denounced the proposition of holding a constitutional convention with the intention of disfranchising illiterates and of injuring public schools, as they claimed.[61] Under these conditions (Democrats being divided and the Republicans being united), it is easy to see why the convention movement was defeated in 1897.

The matter still continued to be discussed. Such election laws as the "Walton Law" and the "Parker Law" have caused many Virginians to become ashamed.[62] It is an open secret that, under these laws, many frauds have been perpetrated by the election officers. Still, there is the feeling that the white people must rule, and that, so long as universal negro suffrage stands, such election laws as now exist must stand. For the sake of the good name of Virginia for public honesty, all feel that some restrictions must be placed on suffrage so that the ignorant and vicious and those who have no "permanent common interest with, and attachment to, the community" must be disfranchised. Then elections may exist without fraud.

This being the state of affairs, another bill was introduced in 1900 to take the vote of the people on calling a constitutional convention. This passed the General Assembly. The State Democratic Convention held at Norfolk on the 2nd of May made the calling of a convention a party matter, and at the spring elections held on the

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[59] Dispatch, May 25, 1896; June 6, 1896.

[60] Dispatch, June 4, 1896.

[61] Dispatch, April 24, 1896. The Democratic Convention pronounced this as a slander on the party.

[62] Dispatch, Feb. 29, 1896.

fourth Thursday in May, 1900, a majority of those voting declared in favor of the measure.[88]

Since the first of March, 1900, many discussions have occurred in the papers with reference to suffrage. From the many newspaper articles we are justified in concluding that a large majority of the white people of the State are anxious for the convention to make some radical changes in suffrage. They desire that the changes may be made so that no whites may be disqualified, but that many negroes may be disfranchised. At the Democratic State Convention at Norfolk in May, 1900, the party openly committed itself to what might be termed a "white man's constitution." The following extracts from the platform then adopted indicate the spirit which then prevailed, and which will necessarily control the Democratic members of the constitutional convention: "Whereas the General Assembly of Virginia has submitted to the vote of the people the question of the calling of a constitutional convention, and whereas, it is the evident desire of the white people of Virginia to amend and revise the present constitution;

"Resolved, That the Democratic party, in convention assembled, endorse the action of the General Assembly, and earnestly urge the people of Virginia to vote on the fourth Thursday in May for calling a constitutional convention.

"Resolved, That it is the sense of this convention that in framing a new constitution no effort should be made to disfranchise any citizen of Virginia who had a right to vote prior to 1861, nor the descendant of any such person, and that when such a constitution shall have been framed, it shall be submitted to a vote of the people for ratification

[88] The legislative caucus of the Democratic party had declared for a convention to revise the constitution as to criminal expenses and suffrage. There was something of an element in the party against the convention, but not very strong. After the action of the Norfolk convention the matter was well supported by the Democrats. The official vote was 77,362 for the convention and 60,370 against it. Dispatch, April 1, 5, 8, 21, 27, 29, May 2, 3, 25, June 7, 1900.

or rejection, and the Democratic party pledge that the expenses incident to a constitutional convention shall be kept down to the lowest possible figures." [84]

The newspapers have repeatedly quoted these resolutions and declared that the illiterate whites would not be disfranchised. We cannot but regret that the Democratic party in a convention should have committed itself to what seems a subterfuge to avoid direct conflict with the XIVth and XVth amendments of the Constitution of the United States. We realize very fully that few negroes are fit to be citizens; that the XIVth and XVth amendments were very great mistakes; and that they have been the cause of all the election troubles which have prevailed in the South.

However, so long as these amendments remain a part of the United States Constitution, it is practically a piece of dishonesty to try to frame a constitution which in word will not violate these amendments, while in its spirit and its working it will disfranchise many belonging to one race and allow the franchise to be exercised by all of another race. For one thing, the writer of this article believes in an educational qualification. He would like to see at least three-fourths of the negroes deprived of their votes, but not in the face of the present Constitution of the United States. An educational qualification will deprive very few of the right to vote, and for this reason it is not being vigorously advocated by the leading politicians of the State. It has been suggested that a poll-tax of three dollars per annum might be imposed on every male citizen and that no citizen could vote unless he had paid this tax for the fiscal year preceding the election.[85] This would be a very great check to the exercise of suffrage by the worthless who never pay their taxes. To a very great extent, the fraud which was practiced under this system between 1876 and 1882 could be avoided by forbidding the collectors from

[84] Dispatch, May 3, 4, 1900.

[85] This suggestion was made by Mr. A. F. Thomas in a paper on "The Virginia Constitutional Convention." This pamphlet is a very admirable one.